DUTIES AND RESPONSIBILITIES OF ADMINISTRATORS OF FINANCIAL INSTITUTIONS AND APPOINTMENT OF CHIEF EXECUTIVES

PREPARED FOR THE NATIONAL BANK OF ANGOLA

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The following guideline is designed to assist financial institutions in advising directors and senior officials of their duties and responsibilities as well as on the procedures for reporting to the National Bank of Angola (BNA) any pending changes in the board of directors and senior officials. Financial institutions in doubt over certain clauses of the guidelines may refer their inquiries to the Banking Operations Department of the BNA. For the purposes of this Guideline, the term "financial institutions" refers to all institutions engaged in extending credit and taking deposits; it encompasses commercial banks, finance companies, cooperative societies, development banks and NGOs supervised and/or licensed by the BNA.

1. As custodians of public funds, a financial institution should be governed by active and dedicated members of its board of directors, who are sufficiently committed and fully responsive to the diverse interests not only of its shareholders but, more importantly, of its depositors. Administrators are placed in positions of trust by the financial institution's shareholders. In the pursuit of profit, administrators should never lose sight of their basic responsibility as trustees of the financial assets of the community the financial institution serves. They may delegate the conduct of daily routine of the bank's business to their senior officers and employees, but not their responsibility for the consequences of unsound or imprudent policies and practices, whether these involve lending, investing, management control, or any other banking activity.[1] The interests of the financial system will be safeguarded, to a large extent through prudent, informed, efficient, and able administration.

2. In order to safeguard the interests of the financial system, the following major responsibilities are placed on the board of directors of financial institutions:

   (i) to select and appoint senior executive officials who are qualified and competent to administer the bank's affairs effectively and soundly. The management team must be professional at all times in carrying out its duties and the Board of Directors must be alert to the effectiveness and competence of their staff. The performance of the senior officials will determine the health of their financial institutions.

   (ii) to establish an Audit and Examination Committee of Directors comprising non-executive directors.

   (iii) to set up an internal audit department with qualified internal audit personnel, if there is none, and to strengthen internal audit functions. The internal auditor should report directly to the Audit Committee.

   (iv) to effectively supervise the financial institution's affairs so as to ensure that the institution is soundly managed. As bank administrators are entrusted with the handling and investment of funds received from the general public, the supervision required from them involves a higher degree of wisdom, prudence, good business judgement and competence than that of administrators of ordinary companies. They must devote time to becoming informed about the bank's affairs. Although administrators may delegate certain authority to senior officials, it is their responsibility to supervise and be responsible for the financial institution's sound management as well as its problems. Apart from retaining a record of the minutes of Board meetings, a record of any supervisory actions taken by administrators should also be kept.

   (v) to adopt and follow sound policies and objectives which have been deliberated fully. The administrators must provide a clear framework of objectives and policies within which senior executive officers are to operate. These should cover all areas, especially in the more important areas of investments, loans, asset and liability management, profit planning and budgeting,

[1] Law no. 13/05, September - the Financial Institutions Law does not indicate clearly the ultimate responsibility of the Board of Directors for the consequences of imprudent policies and practices carried out by the financial institution that it controls.

capital planning, and personnel policies. Clear lines and limits of authority for all levels of staff should be set by the Board.

(vi) to avoid self-serving practices and conflicts of interest. Once their appointment takes effect, administrators are fiduciaries and must display the utmost good faith towards the financial institution in their dealings with it and on its behalf. The Guideline on the Code of Ethics Pertaining to the Conduct of Administrators, Directors, and Employees of Financial Institutions subjects administrators to disclosure requirements on their outside business interests. Furthermore, the Guideline on the Prohibition of Loans to Administrators, Directors and Employees prohibit lending to a financial institution's administrators or to corporations in which the administrators have an interest. In this connection, administrators should also avoid making any personal profits, acquiring personal benefit, retaining a commission, bonus or gift in return for their official action of giving approval to financing arrangements or the use of particular services.

(vii) to be regularly informed of the financial institution's condition and management policies. Administrators are to keep themselves informed of the condition of the business, the course that it is steering, and to apply immediate remedial measures should the need arise. The Board should meet regularly, preferably not less than once a month, to deliberate on the performance of their financial institution, the direction of policy and to provide guidance for management.

(viii) to observe banking laws, regulations and guidelines. Administrators must be familiar with relevant laws, related regulations and guidelines and must exercise care to see that these are not violated. They may be penalized for any non-compliance with the provisions of the bank/nonbank legislation, regulations and guidelines and removed from office if found to have acted against the interests of depositors and the financial institution.

(ix) to ensure that the financial institution has a beneficial influence on the economy of its community. Administrators have a continuing responsibility to the community to provide those banking services and facilities that will be conducive to well-balanced economic growth.

3. The regulation on the Code of Ethics Pertaining to the Conduct of Administrators, Directors and Employees of Financial Institutions provides for penalties to be levied directly on directors and officers who have acted contrary to the interests of the depositors or who have withheld the timely delivery of documents and other information requested by the BNA. The administrator or officer is expected to pay such fines personally. The BNA will not permit the financial institution concerned to reimburse its administrator or officer under such circumstances.

Appointment of Chief Executives

4. The sound operations of the financial institutions depend critically on the appointment of the Chief Executive. The BNA holds the Chief Executive of a financial institution directly responsible for the day-to-day operations of that institution and to be familiar with the performance of the institution, the adequacy of its internal controls and compliance with the regulations, as well as current matters and policies affecting the industry in general.

5. The Chief Executive must therefore have the knowledge and professional competence necessary to the conduct of banking business. He must devote full time to his job and be able to direct and supervise his institution effectively and responsibly.

6. The candidate for the position of Chief Executive would be expected to have suitable qualifications and experience, with a proven record in the banking/nonbanking industry at the senior management level. He must be a person of high caliber, trustworthy and of impeccable integrity.

7. Any candidate for the Chief Executive's post should not be bankrupt or a person convicted of an offence involving dishonesty or fraud. In addition, the BNA considers a candidate ineligible for the position of Chief Executive if he has been suspended for any reason while performing his duties in his previous employment or if he has been subject to an investigation by the BNA for doubtful transactions during the course of his career.

8. To ensure that the right candidate is appointed, it is important that the BNA be consulted first before the appointment of a Chief Executive is announced. Similarly, it is expected that the BNA will be informed before there is a public announcement of any changes to a financial institution's board of directors.

9. Since the BNA will be consulting the Chief Executive regularly on matters of policy and day-to-day operations, it is important that the BNA be informed of the person who will be directly responsible for the overall running of the financial institution concerned in the absence of the Chief Executive, either out of the country or on leave. The BNA expects the Deputy or person so nominated to be fully acquainted with the affairs of the institution concerned and be able to act promptly with authority on matters affecting the institution. The delegation of responsibilities to several persons, with no single person being the coordinator, should be avoided.

10. The remuneration of Chief Executives should not be out of line with the financial institution's operations and size. Chief Executives should not avail themselves of self-serving remuneration, with excessive bonuses and fringe benefits relative to the financial institution's profits and operating costs.

11. As a matter of principle, the Chief Executive of a group of financial institutions should draw all his salary, as well as bonuses and fringe benefits, from one source, usually the parent. While the Chief Executive of a financial institution is entitled to receive director's fees from the institution's subsidiaries, such fees should be very nominal.

Audit and Examination Committee of Directors

12. The Board should establish an Audit and Examination Committee of Directors to review the financial condition of the financial institution, its internal controls, audit program, the performance and findings of the internal audit staff, and to recommend appropriate action. The external and internal auditors should also be allowed free access to the Audit Committee. The independent reports of this Committee and of the external and internal auditors, and corrective actions taken, should be tabled and discussed at length by the Board of Directors.

13. The primary responsibilities of the Committee are:

    (i) to review the financial condition of the institution, its internal controls and audit program, the performance and findings of the internal audit staff and to recommend action to be taken thereon by management;

    (ii) to review with external auditors the scope of their audit and audit reports, including their findings and any action to be taken;

    (iii) to select independent external auditors for appointment by the institution's board each year;

    (iv) to ensure the prompt publication of the annual accounts of the financial institution. The Board has a duty to ensure that accounts are timely and accurate, along with frequent reviews of the adequacy of provisioning against contingencies and classified loans.