GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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General Notices

BANK OF NAMIBIA

No. 119 1998

DETERMINATIONS UNDER THE BANKING INSTITUTIONS ACT, 1998 (ACT NO. 2 OF 1998)

In my capacity as Governor of the Bank of Namibia (The Bank) and under the powers vested in the Bank by virtue of sections 71(3) of the Banking Institutions Act, 1998 (Act No 2 of 1998), read in conjunction with sections 27, 36, 37 and 41 of the aforementioned Act, I hereby issue the Determinations on the Appointment, Duties and Responsibilities of Directors and Principal Officers of Banking Institutions (BID-1), which Determinations shall become effective on 1 July 1998.

T K ALWEENDO
GOVERNOR

Windhoek, 2 June 1998

BID-1

DETERMINATIONS ON THE APPOINTMENT, DUTIES AND RESPONSIBILITIES OF DIRECTORS AND PRINCIPAL OFFICERS OF BANKING INSTITUTIONS

Overview

Public confidence is the cornerstone of a stable banking system. As the custodian of public funds, the management of a banking institution must exhibit impeccable integrity and professionalism in their conduct so as to engender public confidence in the safety of their deposits. The board of directors of a banking institution must comprise technically competent persons of integrity with a strong sense of professionalism, fostering and practising the highest standards of banking and finance in the country. These determinations incorporate a coherent set of rules relating to the appointment, duties and responsibilities of directors and principal officers to ensure the interests of banking institutions are adequately safeguarded through prudent, efficient and professional management.

1. Duties and Responsibilities of the Board

The board of directors of a banking institution shall:-

1.1 Select and appoint senior executive officers who are qualified and competent to administer the affairs of the banking institution effectively and soundly. The management team must be professional at all times in carrying out its duties and the board of directors must ensure at all times the effectiveness and competence of their management team;

1.2 Establish and ensure the effective functioning of an Audit Committee, comprising of non-executive directors;

1.3 Set up an effective internal audit department, staffed with qualified internal audit personnel to perform internal audit functions, covering the traditional function of financial as well as management audit. To enhance the independence of the internal audit function, the board shall ensure that the internal auditors have full access to all records, and are given an appropriate standing in the organisation's hierarchy. In this regard, the internal auditors shall be placed under the direct authority and supervision of the Audit Committee. Since the internal auditors are accountable to the Audit Committee, their performance shall be evaluated and decided by the Audit Committee;

1.4 Ensure that the banking institution has a beneficial influence on the economic well-being of its community. Within the framework of sound business practices, directors have a continuing responsibility to the community to provide those banking services and facilities which will be conducive to economic growth and national policy aspirations;

1.5 Supervise the affairs of the banking institution, and be regularly informed of the banking institution's financial condition and management policies ensuring that the institution is soundly managed. The directors of a banking institution are entrusted with the handling and investment of public funds. Consequently, the supervisory commitment required from them entails a higher degree of wisdom, prudence, good business judgement and competence than that of directors of other types of companies. They shall commit sufficient time to be fully informed of the condition of the business, the direction they are steering the institution to, and to apply immediate remedial measures when the need arises. Although directors may delegate certain authority to senior officers, it is their responsibility to supervise the banking institution to ensure sound management. The board shall meet regularly, not less than once every quarter, to deliberate on the performance of the banking institution and to provide direction and guidance for management;

1.6 Adopt and follow sound objectives, strategies and policies which have been fully deliberated. Directors shall provide clear objectives and policies within which senior executive officers are to operate. These shall cover all aspects of operations, including strategic planning, credit administration and control, asset and liability management encompassing the management of liquidity risk, interest rate risk, market risk, credit risk, accounting system and control, service quality, automation plan, prevention of money laundering, profit planning and budgeting, adequacy of capital and human resource development. Clear lines and limits of authority for all levels of staff shall be established;

1.7 Observe banking laws, regulations and determinations. Directors shall be familiar with banking and other relevant legislation, related regulations, determinations, guidelines and notices and shall exercise due diligence to ensure that these are not violated. Directors may be held accountable for any non-compliance with the provisions of the banking legislation and be removed from office if found to have acted against the interests of depositors and the banking institutions;

1.8 Avoid self-serving practices and conflicts of interest. Once their appointments take effect, directors assume a fiduciary role and shall display the utmost good faith towards the banking institution in their dealings with it or on its behalf. Directors shall disclose their outside business interests and in particular, they shall avoid making any personal profit, acquiring personal benefit or retaining any commission, bonus or gifts for performing their official function of granting approval to financing arrangements or the use of particular services; and

1.9 Undertake to comply with the lending policies and practices applicable to directors of the banking institution. With regard to credit exposures to directors, banking institutions shall comply with the determinations issued by the Bank in terms of section 36 of the Banking Institutions Act, 1998 (Act No 2 of 1998) on exposures to directors, officers with managerial responsibilities, shareholders etc.

2. Appointment of Directors and Principal Officers

2.1 With regard to the appointment of directors and principal officers banking institutions shall ensure that only "fit and proper" persons are appointed. In determining whether a person is "fit and proper" to hold the position of director or principal officer of a banking institution, due regard shall be had to the following:-

2.1.1 his[1] probity, competence and soundness of judgement for fulfilling the responsibilities of that position. High standards of integrity, objectivity and professionalism are required;

2.1.2 his experience, knowledge and understanding of conducting and managing banking business;

2.1.3 the diligence with which he is fulfilling or is likely to fulfill those responsibilities; and

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[1] Reference to the male gender shall throughout this document equally apply to the female gender

2.1.4 whether the interests of depositors of the banking institution are, or are likely to be, in any way threatened by his holding that position.

2.2 Without prejudice to the generality of the aforegoing provisions, banking institutions shall not appoint a person as a director or principal officer if he has at any time:-

2.2.1 committed an offence involving fraud or other dishonesty, or any other relevant criminal offence;

2.2.2 contravened any provision made by or under any written law designed for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of banking, insurance, investment or other financial services or the management of companies or against financial loss due to the conduct of insolvents or rehabilitated insolvents;

2.2.3 engaged in any business practices that may be regarded as being deceitful or otherwise improper (whether unlawful or not) or which otherwise reflect discredit on his method of conducting business; or

2.2.4 engaged in or been associated with any other business practices or otherwise conducted himself in such a way as to cast doubt on his competence and soundness of judgement.

2.3 The sound operation of a banking institution depends critically on its principal officer. The candidate for the principal officer's post shall be suitably qualified with appropriate experience and shall preferably possess a proven track record in the banking industry.

He shall be a person of high calibre and impeccable integrity. Banking institutions may consider a candidate ineligible for the position of principal officer if he has been dismissed for any reason while performing his duties in his previous employment. The following requirements shall be observed with regard to the appointment and responsibilities of the principal officer:-

2.3.1 The principal officer shall be directly responsible for the day-to-day operations of a banking institution. He shall be familiar with the operations of the banking institution, the state of internal controls, legal requirements, as well as current issues and policies affecting the industry in general. He must also have the necessary knowledge and professional competence in the conduct of banking business;

2.3.2 A banking institution shall inform the Bank of the person who will be directly responsible for the overall running of the institution in the absence of the principal officer. This is necessary for the Bank to consult him on matters of policy and day-to-day operations. The person so nominated shall be fully acquainted with the affairs of the banking institution, and must be able to act promptly, with authority, on matters affecting the banking institution; and

2.3.3 The delegation of responsibilities to several persons, with no single person as the coordinator within the institution, is not permitted.

2.4 Practising Lawyers and Accountants

To enable banking institutions to tap the expertise of lawyers and accountants, practising lawyers may be appointed as directors of a banking institution provided they are not employed by or are not partners in a legal firm, which is on the panel of lawyers of that particular banking institution. Similarly, practising accountants may be directors provided they are not employed by or are not partners in an accounting firm which is engaged to conduct the audit of or consultancy work for that particular banking institution. The practising lawyers and accountants who are appointed as directors of banking institutions shall exercise the highest degree of integrity and professionalism. They shall be mindful of the need to avoid being involved or seen to be involved in any self-serving practices and conflict of interest situations in the conduct of their profession while serving as directors of a banking institution.

For practical purposes, however, practising lawyers who are currently serving on a bank's board of directors and who are affected by para 2.4 of these Determinations will be given until 31 December 1998 to comply with this requirement.

2.5 Politicians

Individuals who are active in politics shall not be appointed as directors of a banking institution. This is to avoid risk of the politicians encountering conflict of interest situations in serving their constituencies. For this purpose, a person is considered to be politically active if he is a member of the National Assembly or the National Council. In this regard, banking institutions shall inform the Bank promptly upon the knowledge that any of their directors have become actively involved in politics.

2.6 Alternate Directors

Directors of banking institutions shall not appoint alternate directors as they should be committed personally to the board in directing the management of the banking institutions. An alternate director, in his capacity as a proxy for a director, may not be able to contribute effectively to the deliberations of the board: Provided that directors who are not residents of Namibia should be permitted to appoint alternates.

3. Directorship in Other Corporations

3.1 Interlocking directorships in any banking institution and building societies are prohibited. The Bank will only allow a common director for banking institutions which are related corporations. This is in line with the need to avoid conflict of interest situations in the management of two or more banking groups. Consistent with this policy, a person with more than 5% of the total nominal value of all vote bearing shares issued in a banking institution in his personal capacity (directly or indirectly) shall not be appointed to the board of another banking institution or banking group.

3.2 Except with the prior written approval of the Bank, any executive director (including the principal officer) of a banking institution shall not hold any executive position in another corporation. However, for companies within the same group, and family-owned companies of the principal officer or executive director, exemption may be granted on a case-by-case basis. This is consistent with the Bank's requirement for a principal officer and any other executive director to devote his attention and commitment principally to the day-to-day operations of a banking institution.

4. Non-Executive Directors

A non-executive director (i.e. not a full-time staff of a banking institution) shall attend at least 75% of the board meetings of a banking institution in any particular year. This is to ensure that he will discharge his duties and responsibilities effectively. At its Annual General Meeting, a banking institution shall review the suitability of any non-executive director who has failed to comply with this 75% attendance rule without valid reason. A non-executive director who has breached the 75% attendance rule without valid reason for two consecutive years shall be discharged.

5. Composition of the Board of Directors

5.1 Minimum Number of Directors

A banking institution shall have at least <u>five</u> directors. This is crucial to ensure that an adequate number of directors are always present to provide direction and guidance to the management of the banking institution. In the event that the Memorandum and Articles of Associations (M&A) of a banking institution prohibits the appointment of more than four directors, the M&A shall be amended. In other cases, banking institutions are encouraged to amend their M&A, as and when convenient, to provide for a minimum of five directors.

5.2 Independent Non-Executive Directors

5.2.1 In an increasingly complex banking environment, the presence of suitably qualified independent directors can contribute effectively towards achieving the main tasks of the board. Independent directors shall provide the necessary check and balance on the "controller" i.e. parties representing the interests of the majority shareholders of the banking institution so as to ensure that the interests of minority shareholders and that of the general public are given due consideration in the decision-making process. Independent directors should not be brought in only to be neglected and ignored as this would tantamount to deceiving the minority shareholders and the public.

5.2.2 A banking institution shall appoint at least two independent non- executive directors to its board. An independent director is defined as a director who is not a substantial shareholder in the banking institution as defined in the Banking Institutions Act, Act 2 of 1998, and who represents the interest of the shareholders other than the controlling shareholders, or the interest of members of the general public. A director of banking institution who is an independent director of the bank holding company will be considered as an independent director of the banking institution if he does not have a direct or indirect stake of more than 5% in the banking institution.

5.3 Maximum Number of Executive Directors

A maximum of two senior officers, including the principal officer, of a banking institution shall serve on the board. In exceptional cases with the prior written consent of the Bank, up to three senior officers may be appointed as directors. Directors with executive powers shall not account for more than 50% of total board members at any time. This is to ensure that the non-executive directors, who should form the majority, render the necessary independence to the board from the executive arm of the banking institution, and help mitigate any possible conflict of interest between the policy-making process and the day-to-day management of the banking institution.

6. Remuneration

The remuneration of the directors and principal officers shall not be out of line with the nature and size of operations of a banking institution. The directors and principal officer shall not avail themselves of unreasonably bountiful remuneration, with excessive bonuses and fringe benefits relative to the profits and operations of the banking institution.

BANK OF NAMIBIA

No. 120 1998

DETERMINATIONS UNDER THE BANKING INSTITUTIONS ACT, 1998
(ACT NO 2 OF 1998)

In my capacity as Governor of the Bank of Namibia (The Bank) and under the powers vested in the Bank by virtue of sections 71(3) of the Banking Institutions Act, 1998 (Act No 2 of 1998), read in conjunction with section 30 of the aforementioned Act, I hereby issue Determinations on the Classification of Loans and the Suspension of Interest on Non-Performing Loans and the Provision for Bad and Doubtful Debts (BID-2), which Determinations shall become effective on 1 July 1998.

T K ALWEENDO
GOVERNOR Windhoek, 2 June 1998

BID-2

DETERMINATIONS ON THE CLASSIFICATION OF LOANS AND THE SUSPENSION OF INTEREST ON NON-PERFORMING LOANS AND THE PROVISION FOR BAD AND DOUBTFUL DEBTS

Overview

Every banking institution is required to make provision for bad and doubtful debts and before any profit is declared, ensure that the provision is adequate. The Bank requires a banking institution to maintain a general provision for bad and doubtful debts in addition to the specific provision already maintained by that banking institution. These Determinations also provide directions for the classification of loans, the treatment of interest on non-performing loans, and writing off bad debts. It must be emphasised
that the following determinations represent only the minimum requirements that banking institutions should observe in respect of interest-in-suspense, classification of loans as non-performing and provision for bad and doubtful loans. Any banking institution which chooses to adopt a more stringent standard is encouraged to do so.

1. Classification of Loans as Non-Performing

1.1 Criteria for Different Categories of Credit

Classifications shall apply to all direct and indirect extensions of credit. An account will be classified as non-performing after having due consideration to all pertinent credit factors and the protection afforded by collateral, if any. For the purpose of these determinations, credit accounts shall be classified as "non-performing loans" in the following manner:-

1.1.1 Overdrafts

An overdraft facility shall be classified as non-performing, if an account has been dormant for a period of 6 months or more and the outstanding amount is in excess of the approved limit. For this purpose, dormant accounts shall include accounts which have had only a few transactions of insignificant amounts during the last 6 months.

As such, overdrafts which are dormant for 6 months or more and subsequently breach the approved limit, as a result of the accrual of interest, shall be classified as non-performing as and when the approved limit is breached. The same principle shall apply in cases where the banking institution consciously allows the borrower to draw down on an overdraft account which has been dormant for 6 months or more, leading to an outstanding balance in excess of the approved limit. Such accounts shall be classified as non- performing as and when the approved limit is exceeded.

An active account which has breached the approved limit shall be classified as non-performing when the amount in excess of the approved limit (or the revised approved limit, if applicable) is not settled fully within 6 months from the date the account first breaches the approved limit (or the revised approved limit). Interest accrued from the date an account is classified as non-performing shall forthwith be suspended until all arrears in excess of the approved limit are settled.

1.1.2 Revolving Loans, Mortgage Loans, Term Loans, Hire-Purchase Loans, Other Loans

These types of accounts shall be classified as non-performing when the principal or interest has been in arrears for a period of 6 months or more.

1.1.3 Bankers Acceptances, Bills of Exchange and Other Instruments of A Similar Nature

When the instrument is overdue.

1.1.4 Rescheduled Credit Facilities

Where rescheduling occurs before an account is classified, the rescheduled account shall be classified as non-performing when, in the aggregate, the period of time the account is in arrears before rescheduling (if any) and after rescheduling is 6 months or more. Where rescheduling occurs after an account has been classified as non-performing, the rescheduled account shall continue to be classified as non-performing.

The rescheduled loan may be reclassified as a performing loan only when the repayments under the rescheduled term have been complied with for a continuous period of six months.

In this regard a continuous period of six months means, depending on the schedule of repayment, for example, 6 monthly payments, 4 equal payments or 2 equal payments; and the borrower shall comply with the rescheduled term for a continuous period of six months without any break in between. In other words, if the borrower is in arrears for any repayment under the rescheduled term (i.e. a break occurs), the arrears would have to be settled in full before the 6 continuous months of compliance with the rescheduled term can commence afresh. In cases where the 6 continuous months of repayment under the rescheduled term are settled in advance, for example, 6 monthly payments are settled within the first 3 months, such an account may be reclassified performing provided that the value of each monthly instalment which has been settled in advance is not significantly lower than the value of any subsequent monthly instalments payable.

1.1.5 Credit Card Accounts

A credit card account shall be classified as non-performing when the credit card holder is in default of the minimum monthly repayments for 6 months or more.

1.2 Related Issues on Classification of Credit

1.2.1 Recalled Overdraft Facility

When an overdraft facility is recalled, the account shall immediately be classified as non-performing. In the event that a recalled overdraft facility is subsequently allowed to be reinstated without full settlement of the amount outstanding, the facility shall be regarded as a rescheduled facility and shall continue to be classified as non-performing until the borrower has complied with the terms and conditions of the reinstated facility for a continuous period of 6 months.

1.2.2 Approved Limit for Overdraft Facility

For the purposes of these determinations, the term 'approved limit' refers to the current approved line of credit granted to the borrower. Any reduction in the limit, for example, as a result of the expiry of a temporary additional overdraft or annual review, would lower the 'approved limit' accordingly.

An unadvised line of credit shall not be regarded as the 'approved limit' for purposes of classification of overdraft facilities and the 'approved limit' must be transparent to the borrower.

1.2.3 Quarterly or Semi-Annual Repayments

An account shall be classified as non-performing where the repayment of the principal or interest has been in arrears for 6 months or more. Where repayments are scheduled to be made on a quarterly basis, each repayment shall be considered equivalent to three months of repayments. Thus default of one repayment shall render an account three months in arrears. Similarly, a default of a semi-annual repayment shall be equivalent to 6 months in arrears. Where repayments are scheduled to be made at an interval longer than 6 months, the account shall be classified as non-performing upon the default of one instalment.

2. Suspension of Interest on Non-Performing Loans

2.1 Treatment of Interest on Non-Performing Loans

All interest accrued (but uncollected) from the date an account is classified as non-performing shall forthwith be suspended and credited to the "interest-in-suspense" account. The "interest-in-suspense" account shall not be maintained as a memorandum entry account and shall be reflected in the banking institution's books of accounts.

However, interest accrued and recognised as income prior to the date the loan is classified as non-performing, but which has not been collected, need not be reversed out of income. In other words, claw-back of interest previously earned and recognised but uncollected on a non-performing loan (claw-back of interest to day 1) is not required. Suspension of interest on a non-performing account shall be mandatory from the date the account is classified as non-performing. Interest earned on an account which has been classified as non-performing shall only be recognised as income as and when the interest has been collected by the banking institution. In other words, interest income shall be recognised on a cash basis.

2.2 Accrual of Penalty Interest

Banking institutions may recognise penalty interest charged (but uncollected) as income, as provided in the Usury Act, 1968 (Act no. 73 of 1968). However, from the date an account is classified as non-performing, the penalty interest charged thereon shall be recognised as income only on a cash basis. As in the case of normal interest, penalty interest shall be recorded in the books of accounts and not maintained on a memorandum basis. Memorandum entry is permitted only where the loan has been fully written off (i.e. taken out of the books of accounts) or partly written off.

3. Reclassification of Non-Performing Loans as Performing

Upon full settlement of all arrears, in interest and/or principal, due on a non-performing account, which has not been rescheduled, the account may be reclassified as a performing account and, thereafter interest income may be recognized on an accrual basis. However, funds for the repayment of the arrears shall not be obtained from the creation of new loans or debt instruments from the same banking institution (including other banking institutions in the same group).

This rule shall not apply where a banking institution in realising the collateral for the non-performing loan, grants a loan to an independent or non-related third party wishing to purchase the collateral. The loan to the third party shall be granted on the basis of normal credit evaluation criteria, including the credit- worthiness of the third party. As stated above, for a non-performing loan which has been rescheduled, the account shall be reclassified as performing only when the repayments under the rescheduled term have been complied with for a continuous period of 6 months. On the other hand for an account which was performing at the time of rescheduling but subsequently turned non-performing, the account shall be reclassified as a performing account upon full settlement of the repayments in arrears under the rescheduled term.

4. Provision for Bad and Doubtful Debts

With regard to provisioning for bad and doubtful loans, banking institutions shall build up and maintain a general provision account, which shall not be less than the following percentages:-

0.5 percent with immediate effect;
0.75 percent by 31 December 1998; and
1.0 percent by 31 December 1999.

The method of computation shall be based on total outstanding loans (including accrued interest), net of interest-in-suspense and specific provision for bad and doubtful accounts.

General provisions =
1% x (total outstanding loans - interest in suspense - specific provisions)

In respect of specific provision, banking institutions shall maintain the following percentages:

Category	**Specific provision on the shortfall in security value over the amount outstanding net of unearned interest and interest suspended**
Sub-standard accounts	Nil
Doubtful accounts	50%
Bad accounts	100%

4.1 Classification of Accounts

In assessing the adequacy of specific provision, banking institutions shall conduct regular and systematic reviews of all loans and advances and other credit facilities extended to their clients, and shall classify adverse accounts according to the following categories:

4.1.1 Sub-Standard Accounts

Loans/advances/other credit facilities or portions thereof, which involve more than a normal risk of loss due to certain adverse factor(s), but which are at this stage not considered as doubtful or bad. These adverse factors can include:-

- sporadic delays in debt servicing;
- unfavourable financial conditions;
- insufficient operating cash-flow to meet current debt commitments; and
- insufficiency of security.

and other adverse factors which give rise to some doubts as to the ability of the borrower to comply with the present loan repayment terms. Although no specific provision is required at this stage, special and corrective attention/action needs to be taken by the banking institution to arrest any further deterioration in loan quality and to enhance its quality in the near future. Corrective action that may be taken includes obtaining suitable reduction in the amount of facility, additional security, and more complete financial data concerning the borrower's condition.

4.1.2 Doubtful Accounts

Loans/advances/other credit facilities or portions thereof with respect to which collection in full is improbable and there is a high risk of ultimate default. A specific provision amounting to 50 percent of the amount outstanding net of unearned interest, interest suspended and value of security (as set out in **Annexure A** hereto) is required.

4.1.3 Bad Accounts

Loans/advances/other credit facilities or portions thereof which, on the basis of the relevant circumstances, are deemed uncollectible and worthless. Bad accounts shall be written off or covered by a specific provision amounting to 100% of the amount outstanding, net of unearned interest, interest suspended and value of security (as set out in **Annexure A** hereto).

4.2 Generally, the appropriate classification for an individual account will be determined on a case-by-case basis, based on the principles enumerated above, taking into account all relevant information currently available. Nonetheless, in order to expedite the process of evaluating the quality of loans and provisioning for possible loan losses, all loans and credit facilities which had been approved for an amount of N$500,000 and below shall be classified in the following manner:-

Period of Default	Classification	Provision on Shortfall[1]
6 months or more but less than 12 months	Sub-standard, unless there is evidence to support a worse-off classification	**Nil**
12 months or more but less than 18 months	Doubtful, unless there is evidence to support a better or worse-off classification.	**50%**
18 months and above	Bad, unless there is evidence to support a better classification	**100%**

4.3 Accordingly, for approved loans of N$500,000 or below (the outstanding amount may exceed N$500,000 due to the accrual of interest) which have not been serviced:

4.3.1 for 6 months or more but less than 12 months, no provision is required, unless there is evidence to justify a worse-off classification, i.e. "doubtful"or "bad", in which case a provision of 50% or 100% on the shortfall in security value shall be made.

1 Based on amount outstanding net of unearned interest, interest suspended and value of security (as set out in the Annexure A hereto)

4.3.2 for 12 months or more, but less than 18 months, a 50% specific provision on the shortfall in security value is required, unless the banking institution can produce evidence to justify a better classification in which case, the provision shall be nil. Where there is evidence to support a worse-off classification, i.e. "bad", a 100% provision on the shortfall in security value shall be made.

4.3.3 for up to 18 months and beyond, full provision on the shortfall in security value shall be made, unless the banking institution can produce evidence to justify a better classification, i.e. "doubtful" or "sub-standard", in which case provision shall be 50% of the shortfall in security value, or nil.

5. Write-off of Non-Performing Loans

Accounts or portions thereof shall be classified bad when they are deemed uncollectible and worthless or in the case of credit facilities approved for N$500,000 and below, when they are in default for 18 months or more with no evidence to support a better classification. In view that the above are stipulated as minimum guidelines and banking institutions are free to set more stringent requirements, write-off of loan accounts shall not be allowed unless it is certain that the accounts are genuinely uncollectible and worthless.

Where recovery is still possible but a more prudent provisioning is required, the banking institutions are encouraged to set aside a 100% specific provision for the whole account or part thereof.

5.1 Writing Off Bad Debts of Directors and Principal Officers

A banking institution shall seek the written approval of the Bank before writing off any loan or advance granted by it to:-

5.1.1 any of its principal officers;

5.1.2 any of its directors; or

5.1.3 any company in which it or any of its directors or principal officers is a partner, manager, or agent or to any individual or company of whom or of which any of its directors or principal officers is a guarantor.

The above reference to Directors and Principal Officers shall equally apply to Directors and Principal Officers who had resigned prior to the loan being written off.

6. Write-back of Specific Provision

Write back of specific provision is permitted under the following circumstances:-

6.1 where the loan account is fully settled;

6.2 where there is cash inflow;

6.3 where additional collateral which is readily marketable is provided;

6.4 where there is a firm contractual agreement to dispose of the collateral at a price higher than the valuation used by the banking institution;

6.5 where there is enhancement in the value of security arising from actual conversion of land used on the property bonded, e.g. from agricultural land to residential/industrial/commercial land; or

6.6 where there is concrete evidence to support a reclassification of the account to a better category.

7. Auditors Disclosure

In submitting annual financial accounts to the Bank, auditors of banking institutions shall disclose whether the accounting treatment of the annual financial statements comply with these determinations.

ANNEXURE A

DETERMINATIONS ON THE VALUATION OF SECURITY

1. Property Secured by Mortgage Bond.

1.1 Where court proceedings are not yet instituted, forced sale value (FSV) shall be used. However under exceptional circumstances, fair market value (FMV) may be used, for example, where the banking institution feels strongly that the property bonded is worth FMV and there is evidence to that effect;

1.2 Where an auction is pending and a reserve price (RP) has been fixed, RP shall be used;

1.3 Where an auction has been aborted and FSV of the property is lower than RP, and in the absence of new RP, FSV shall be used;

1.4 Where aborted RP is based on FSV, and in the absence of new RP, a 10% discount shall be made on the aborted RP;

Note: The FSV shall be based on the existing use of the land as valued by an independent professional valuator.

2. Cession of Shares

2.1 Quoted Shares:

These shall be valuated at the latest market price. Appropriate discounts shall be considered if the shares are either thinly traded and/or comprise a large block of shares. Premiums may only be considered where there is a valid offer at the higher price as evidenced by a firm commitment, such as purchase contracts or undertaking letters provided by solicitors or brokers.

If trading in that counter has been suspended (other than temporary suspension), the net realisable asset value, as per the latest audited financial statements (not more than 18 months old and taking into account the content of interim announcement), shall be used. If appropriate financial statements are not available, normally no value is given. In the case of shares which are temporarily suspended, the last quoted price prior to suspension shall be used. The meaning of "temporary" will be inferred from the reasons for suspension, for instance, shares which are temporarily suspended pending a takeover scheme.

2.2 Unquoted shares

Value may be given provided the test of marketability is met. The condition of marketability shall be considered based on the merit of each case if it can be demonstrated that the shares are marketable, the basis of valuation applied shall be the net tangible asset per share. Higher valuation may be considered if the banking institution is able to provide detailed valuation of net assets in support of the higher valuation if there is a purchase offer for the shares evidenced by firm commitments, such as purchase contracts or undertaking letters provided by legal practitioners or brokers.

3. Motor Vehicles, Plant, Machinery and Equipment

In the absence of independent professional valuation, the net book value shall be applicable, using a 20% depreciation rate on a straight line basis on the acquisition price.

4. Gold Coins (Kruger Rands), Unit Trusts

Up to 75% of the market value of Kruger Rands/Gold Coins/Unit Trusts is permitted.

5. Cession of Insurance Policies

The latest net surrender value (after tax) shall be used or the payout value if the policy is nearing maturity.

6. Debentures

For quoted debentures the latest market price shall be used.
No value may be attached to unquoted debentures.

7. Notarial Bonds

No value may be attached to any movables secured under notarial bonds.

8. Cession of Book Debts

No value may be attached unless the banking institution can prove that the debtors are worth the value quoted.

9. Guarantees

9.1	**Personal**	No value
9.2	**Licenced bank**	Full value
9.3	**Government**	Full value

9.4 Generally, guarantees falling in categories other than 9.2 and 9.3 may not be given value unless, it can be clearly demonstrated otherwise, such as cases where the strong financial standing of the guarantor can be firmly established by way of current audited financial statements.

10. Pledge of Investments

Full value may be attached to investments pledged, such as fixed deposits and time deposits.

BANK OF NAMIBIA

No. 121 1998

DETERMINATIONS UNDER THE BANKING INSTITUTIONS ACT, 1998
(ACT NO 2 OF 1998)

In my capacity as Governor of the Bank of Namibia (The Bank), and under the powers vested in the Bank by virtue of section 71(3) of the Banking Institutions Act, 1998 (Act No 2 of 1998), read in conjunction with section 50 of the aforementioned Act, I hereby issue the Determinations on Money Laundering and "Know your Customer Policy" (BID-3), which Determinations shall become effective on 1 July 1998.

T K ALWEENDO
GOVERNOR Windhoek, 2 June 1998

BID-3

DETERMINATIONS ON MONEY LAUNDERING AND "KNOW YOUR CUSTOMER POLICY"

Overview

Money laundering covers all activities and procedures to change the identity of illegally obtained money so that it appears to have originated from a legitimate source.

The most common form of money laundering that banking institutions will encounter on a day-to-day basis takes the form of accumulated cash transactions which are deposited in the banking system or exchanged for value items. These simple transactions may be just one part of the sophisticated web of complex transactions set out on the next pages. Nevertheless, the basic fact remains that the key stage for the detection of money laundering operations is where the cash first enters the banking system.

1. Stages of Money Laundering

There are three stages of money laundering. In each of them, there may be numerous transactions made by launderers through banking institutions, i.e.:-

1.1 **placement** - the physical disposal of cash proceeds derived from illegal activity often by converting such cash into non-cash assets;

1.2 **layering** - separating illicit proceeds from their source by creating complex layers of financial transactions designed to disguise the audit trail and provide anonymity; and

1.3 **integration** - the turning of criminally derived wealth into "legitimate" funds.

If the layering process succeeds, the integration phase places the laundered proceeds back into the economy in such a way that the funds re-enter the financial system as legitimate business funds.

2. The Basle Statement of Principles

The adoption of a Statement of Principles by the Basle Committee on Banking Regulations and Supervisory Practices in December 1988 and by the banking community worldwide, is a step towards preventing the use of the financial system for criminal and money laundering purposes. The Statement is essentially of a general nature, containing ethical principles aimed at encouraging banking and other financial institutions to put in place within their institutions, certain effective procedures and basic policies to assist in the suppression of money-laundering through the banking system. To this end, the Statement recommends that financial institutions should implement specific procedures to ensure that:

2.1 all persons conducting business with them are properly identified;

2.2 all transactions that do not appear legitimate are discouraged; and

2.3 cooperation with law enforcement agencies is achieved.

The Bank is of the view that the adoption of the Statement of Principles on the Prevention of Criminal Use of the Banking System would be beneficial to the banking industry in Namibia. **Annexure A** provides details on the Basle Statement of Principles.

3. Implementation of "Know Your Customer Policy"

3.1 Introduction

The requirement for a banking institution to report cases of suspicious money transactions to the Bank of Namibia is governed by section 50 of the Banking Institutions Act, 1998 (Act 2 of 1998). The Bank of Namibia Act, 1997 (Act 15 of 1997) prohibits any person to directly or indirectly disclose to another person any information that he or she has acquired in the performance of his or her duties or functions for or on behalf of the Bank, except for the purpose of the performance of his or her duties or functions in terms of that Act or when required to do so by a court of law or under any law or on authority of the Board of Directors of the Bank. The question of breaching customer confidentiality is thus well provided for.

In view of this, and the need for awareness, vigilance and a system for monitoring, investigating and reporting suspicious transactions, the minimum safeguards for banking institutions to detect and combat such activities shall include the development of a "Know Your Customer Policy" incorporating the following concepts, procedures and controls.

3.2 Opening of Accounts

Banking institutions should ensure proper identification of their customers at the time a relationship is established, particularly when opening a deposit account or when offering a safe custody facility in order to prevent the creation of fictitious accounts. Apart from official identification documents, a good form of verification of identity is by way of personal introduction from a known and respected customer and/or a member of staff. The golden rule is that a business relationship with a banking institution should never be established until the identity of a potential customer is satisfactorily established. If a potential customer refuses to produce any of the requested information, any relationship already begun should be terminated.

Banking institutions should not keep anonymous accounts or accounts in obviously fictitious names.

3.3 Record Keeping

The principle that "traces must remain" is an important one, particularly in facilitating the needs of the investigating authorities in drug and other crime-related money laundering cases. Document retention may be by way of original documents, microfiche or in computerized form. Banking institutions should keep a copy or references of a customer's identification document, such as, a Namibian identity card or international passport, as well as records of transactions such as account ledgers, credit/debit vouchers and cheques.

3.4 Sufficient Knowledge of Customer's Activities

Banking institutions should exercise "due diligence" by paying special attention to all complex, unusual large transactions, especially substantial cash deposits or withdrawals, and all unusual patterns of transactions which have no apparent economic or visibly lawful purpose. A suspicious transaction will often be one which is inconsistent with a customer's known, legitimate business or personal activities or with the normal business for that type of account. Therefore, the first key to recognition is knowing enough about the customer's business to recognize that a transaction, or series of transactions, is unusual. Examples of customer behaviour or activity which may warrant investigation are provided in **Annexure B**.

3.5 Reporting of Suspicious Transactions

Banking institutions are required to report immediately to the Bank all cases of suspicious transactions involving an amount of N$50 000 or more. The obligation to report is on the individual who becomes suspicious. Some banking institutions, however, may choose to require such unusual or suspicious transactions to be drawn to the attention of supervisory management (branch or departmental manager). The circumstances of each case can then be reviewed at that level to determine whether the suspicion is justified. In the absence of factual information to negate the suspicion, the decision should be taken to report without delay. In any case, banking institutions may wish to assign one of its officers, the additional responsibility of being a focal point or contact person for such reporting.

3.6 **Annexure C** contains a standard format which shall be used for reporting suspicious transactions. In the event that urgent disclosure is required in a "live" situation, particularly when the account concerned is part of an on-going investigation, an initial notification should be made to the Bank Supervision Department of the Bank by telephone.

3.7 Adequate Internal Control Procedures

Banking institutions should establish adequate procedures of internal control and communication in order to forestall and prevent operations related to money laundering. Such procedures may include, as appropriate, the designation of a compliance officer at management level as well as an audit function to test all procedures relating to the prevention of money laundering.

3.8 Staff Awareness

The effectiveness of the procedures and recommendations contained in these Determinations depends on the extent to which staff in banking institutions appreciate the seriousness and potential implications of the issue. They must be encouraged to co-operate fully with the law enforcement agencies and to provide prompt reporting of suspicious transactions.

Timing and content of training packages for staff will be dictated by the institution's specific needs.

The following shall be adopted as a minimum:-

3.8.1 New Employees

A general appreciation of the background to money laundering and the subsequent need for reporting of any suspicious transactions to the appropriate designated focal point should be provided to all new employees who will be dealing with customers or their transactions, irrespective of the level of seniority.

3.8.2 Cashiers/Foreign Exchange staff

Members of staff who are dealing directly with the public are the first point of contact with potential money-launderers and they must be made aware of their responsibilities and of the organisation's reporting system for such transactions. It is vital that "these front line" staff are made aware of the institution's policy for dealing with non-regular customers, particularly where large cash transactions are involved.

3.8.3 Account Opening/New Client Personnel

Staff who deal with account opening or new clients should receive similar training as those front line staff. In addition, the need to verify the identity of the customer must be understood, and training should be given in the area of account opening and customer/client verification procedures.

3.8.4 It is also necessary to make arrangements for refresher training at regular intervals to ensure that staff are reminded of their responsibilities.

3.9 Funds Transfers

It should be noted that funds transfers, particularly international funds transfers can be used for layering or to dissimulate the identity of the original ordering customer or the beneficiary. In this regard, banking institutions are required, when effecting funds transfers, to ensure that the names, addresses and account numbers of both the ordering customer and the beneficiary are identified. The name of the banking institution acting for the ordering customer should also be identified. The above information is considered necessary for purposes of maintaining a credible audit trail.

ANNEXURE A

Basle Statement of Principles

I. Purpose

Banking and other financial institutions may unwittingly be used as intermediaries for the transfer or deposit of money derived from criminal activity. The intention behind such transactions is often to hide the beneficial ownership of funds. The use of the financial system in this way is of direct concern to police and other law enforcement agencies; it is also a matter of concern to banking supervisors and banking institutions' management, since public confidence in banking institutions may be undermined through their association with criminals.

This Statement of Principles is intended to outline some basic policies and procedures that banking institutions' management should ensure are in place within their institutions with a view to assisting in the suppression of money laundering through the banking system, national and international. The Statement thus sets out to reinforce existing best practices among banking institutions and specifically, to encourage vigilance against criminal use of the payments system, implementation by banking institutions of effective preventive safeguards, and cooperation with law enforcement agencies.

II. Customer Identification

With a view to ensuring that the financial system is not used as a channel for criminal funds, banking institutions should make reasonable efforts to determine the true identity of all customers requesting the institution's services. Particular care should be taken to identify the ownership of all accounts and those using safe custody facilities. All banking institutions should institute effective procedures for obtaining identification from new customers. It should be an explicit policy that significant business transactions will not be conducted with customers who fail to provide evidence of their identity.

III. Compliance with Laws

Banking institutions' management should ensure that business is conducted in conformity with high ethical standards and that laws and regulations pertaining to financial transactions are adhered to. As regards transactions executed on behalf of customers, it is accepted that banking institutions may have no means of knowing whether the transaction stems from or forms part of criminal activity. Similarly, in an international context it may be difficult to ensure that cross-border transactions on behalf of customers are in compliance with the regulations of another country. Nevertheless, banking institutions should not set out to offer services or provide active assistance in transactions which they have good reason to suppose are associated with money laundering activities.

IV. Co-operation with Law Enforcement Authorities

Banking institutions should cooperate fully with national law enforcement authorities to the extent permitted by specific local regulations relating to customer confidentiality. Care should be taken to avoid providing support or assistance to customers seeking to deceive law enforcement agencies through the provision of altered, incomplete or misleading information. Where banking institutions become aware of facts which lead to the reasonable presumption that money held on deposit derives from criminal activity or that transactions entered into are themselves criminal in purpose, appropriate measures consistent with the law, should be taken, for example, to deny assistance, sever relations with the customer and close or freeze accounts.

V. Adherence to the Statement

All banking institutions should formally adopt policies consistent with the principles set out in this Statement and should ensure that all members of their staff concerned, wherever located, are informed of the institution's policy in this regard. Attention should be given to staff training in matters covered by the Statement. To promote adherence to these principles, banking institutions should implement specific procedures for customer identification and for retaining internal records of transactions. Arrangements for internal audit may need to be extended in order to establish an effective means of testing for general compliance with the Statement.

ANNEXURE B

Examples of Suspicious Transactions

1. Money Laundering Using Cash Transactions

(a) Unusually large cash deposits made by an individual or company whose ostensible business activities would normally be generated by cheques and other instruments.

(b) Substantial increases in cash deposits of any individual or business without apparent cause, especially if such deposits are subsequently transferred within a short period out of the account and/or to a destination not normally associated with the customer.

(c) Customers who deposit cash by means of numerous credit slips so that the total of each deposit is unremarkable, but the total of all the credits is significant.

(d) Company accounts whose transactions, both deposits and withdrawals, are denominated by cash rather than in the forms of debit and credit normally associated with commercial operations (e.g. cheques, Letters of Credit and Bills of Exchange).

(e) Customers who constantly pay-in or deposit cash to cover requests for bankers drafts, money transfers or other negotiable and readily marketable money instruments.

(f) Customers who seek to exchange large quantities of low denomination notes for those of higher denomination.

(g) Frequent exchange of cash into other currencies.

(h) Branches that have a great deal more of cash transactions than usual. (Head Office statistics should detect aberrations in cash transactions).

(i) Customers whose deposits contain counterfeit notes or forged instruments.

(j) Customers transferring large sums of money to or from overseas locations with instructions for payment in cash.

(k) Large cash deposits using night safe facilities, thereby avoiding direct contact with banking institution's staff.

2. Money Laundering Using Bank Accounts

(a) Customers who wish to maintain a number of trustee or clients' accounts which do not appear consistent with the type of business, including transactions which involve nominee names.

(b) Customers who have numerous accounts and pay in amounts of cash to each of them in circumstances in which the total of credits would be a large amount.

(c) Any individual or company whose account shows virtually no normal personal banking or business related activities, but is used to receive or disburse large sums which have no obvious purpose or relationship to the account holder and/or his business (e.g. a substantial increase in turnover on an account).

(d) Reluctance to provide normal information when opening an account, providing minimal or fictitious information or, when applying to open an account, providing information that is difficult or expensive for the banking institution to verify.

(e) Customers who appear to have accounts with several banking institutions within the same locality, especially when the banking institution is aware of a regular consolidation process from such accounts prior to a request for onward transmission of the funds.

(f) Matching of payments out with credits paid in by cash on the same or previous day.

(g) Paying in large third party cheques endorsed in favour of the customer.

(h) Large cash withdrawals from a previously dormant/inactive account, or from an account which has just received an unexpected large credit from abroad.

(i) Customers who together, and simultaneously, use separate tellers to conduct large cash transactions or foreign exchange transactions.

(j) Companies' representatives avoiding contact with the branch.

(k) Substantial increases in deposits of cash or negotiable instruments by a professional firm or company, using client accounts or in-house company or trust accounts, especially if the deposits are promptly transferred between other client company and trust accounts.

(l) Customers who decline to provide information that in normal circumstances would make the customer eligible for credit or for other banking services that would be regarded as valuable.

(m) Insufficient use of normal banking facilities e.g. avoidance of high interest rate facilities for large balances.

(n) Large number of individuals making payments into the same account without an adequate explanation.

3. Money Laundering Using Investment Related Transactions

(a) Purchasing of securities to be held by the banking institution in safe custody, where this does not appear appropriate given the customer's apparent standing.

(b) Back to back deposit/loan transactions with subsidiaries of, or affiliates of, overseas banking institutions in known drug trafficking areas.

(c) Requests by customers for investment management services (either foreign currency or securities) where the source of the funds is unclear or not consistent with the customer's apparent standing.

(d) Larger or unusual settlements of securities in cash or bearer form.

(e) Buying and selling of a security with no discernible purpose or in circumstances which appear unusual.

(f) A number of transactions by the same counterparty in small amounts of the same security, each purchased for cash and then sold in one transaction, the proceeds being credited to an account different from the original account.

(g) Investor introduced by an overseas banking institution, affiliate or other investors both of which are based in countries where production of drugs or drug trafficking may be prevalent.

4. Money Laundering Involving Offshore/International Activity

(a) Customer introduced by an overseas branch, affiliate or other banking institution based in countries where production of drugs or drug trafficking may be prevalent.

(b) Use of Letters of Credit and other methods of trade finance to move money between countries where such trade is not consistent with the customer's usual business.

(c) Customers who make regular and large payments, including wire transactions, that cannot be clearly identified as bona fide transactions to, or receive regular and large payments from, countries which are commonly associated with the production, processing, marketing of drugs or terrorist organizations.

(d) Building up of large balances, not consistent with the known turnover of the customer's business, and subsequent transfer to account(s) held overseas.

(e) Unexplained electronic fund transfers by customers on an in and out basis or without passing through an account.

(f) Frequent requests for travellers cheques, foreign currency drafts or other negotiable instruments to be issued.

(g) Frequent paying in of travellers cheques or foreign currency drafts particularly if originating from overseas.

5. Money Laundering Involving Financial Institution Employees and Agents

(a) Changes in employee characteristics, e.g. lavish life styles or avoiding taking holidays.

(b) Any dealing with an agent where the identity of the ultimate beneficiary or counter party is undisclosed, contrary to normal procedure for the type of business concerned.

6. Money Laundering by Secured and Unsecured Lending

(a) Customers who repay problem loans unexpectedly.

(b) Request to borrow against assets held by the banking institution or a third party, where the origin of the assets is not known or the assets are inconsistent with the customer's standing.

(c) Request by a customer for a banking institution to provide or arrange finance where the source of the customer's financial contribution to a deal is unclear, particularly where property is involved.

7. Use of Dummy Companies or Trusts

(a) Clients forming companies or trusts with no apparent commercial purposes.

(b) Long delays by clients producing company and trust financial statements.

ANNEXURE C

Money Laundering : Reporting of suspicious transactions

Report No.		
Name of Institution		
Branch Address and Tel. No.		
Account Name(s) (in full)		
Date of opening		
Occupation & Employer		
Nationality		Passport No.
Identification and/or references		
Address of subject		
Details of sums arousing suspicion indicating debit or credit, source & currency used (including the source, amount and date of suspicious transactions.)		
Other relevant information including reason for suspicion.		

Date: ____________________

Signature : ____________________

Name in full : ____________________

Designation : ____________________

BANK OF NAMIBIA

No. 122 1998

DETERMINATIONS UNDER THE BANKING INSTITUTIONS ACT, 1998 (ACT NO 2 OF 1998)

In my capacity as Governor of the Bank of Namibia (The Bank), and under the powers vested in the Bank by virtue of section 71(3) of the Banking Institutions Act, 1998 (Act No 2 of 1998), read in conjunction with section 34 of the aforementioned Act, I hereby issue the Determinations on Large exposures to a Single Person or Group of Related Persons (BID-4), which Determinations shall become effective on 1 July 1998.

T K ALWEENDO
GOVERNOR

Windhoek, 2 June 1998

BID-4

DETERMINATIONS ON LARGE EXPOSURES TO A SINGLE PERSON OR GROUP OF RELATED PERSONS

Overview

Excessive concentration of risk exposure to a single customer, or group of related persons, or industry, or economic sector, places banking institutions in a vulnerable position since a business failure of a large borrower, a slump in an industry or an unexpected downturn in a particular economic sector, could have an adverse effect on a banking institution. A banking institution may fail because of excessive lending to a single customer, or to a group of related persons or to an economic sector.

The need to diversify bank lending to spread the risks involved in lending to a single customer or industrial sector is generally accepted. The purpose of these Determinations is to prevent a banking institution from lending an unduly large proportion of its deposits to one borrower or to a relatively small group of related borrowers. This prudential measure is intended to protect the banking institution's depositors by ensuring that the credit facilities of the banking institution are spread over a relatively large number of persons engaged in diversified businesses.

Such measures are not designed to unduly restrict the granting of credit facilities to a single customer. A banking institution which seeks to grant large loans, for example, could consider syndicating loans for its big borrowers to reduce its exposure. Alternatively, the banking institution could also increase its capital base to enable it to increase the size of its credit facilities to a single customer.

1. Prescriptions and Explanation

1.1 Limit to be imposed

The limit for credit facilities to any person or group of related persons (as defined in 2.3 below) shall be 30 per cent of a banking institution's capital funds. The limit shall apply to the approved limit for the credit facilities or the amount outstanding, whichever is higher. For fully disbursed fixed term loans, the limit shall apply to the amount outstanding.

1.2 Existing credit facilities

Banking Institutions which have outstanding credit facilities in excess of the 30 percent limit prior to the coming into force of the Banking Institutions Act, 1998 (Act 2 of 1998) will be given a 2 year grace period from the date of issue of these Determinations to comply with the new limit. Only fixed term credit facilities existing on the effective date of these Determinations in the process of being repaid according to the agreed repayment schedules shall be allowed to run down in the event that they still exceed the 30 per cent limit after the grace period has expired. No further extension shall be granted without the prior written consent of the Bank.

1.3 Exemption under certain conditions

In the case where compliance cannot be fully met and the extension of credit is in excess of the 30 per cent limit, the prior written approval of the Bank must be obtained. The Bank will grant or refuse such approval depending on the merits of each case.

1.4 Aggregate limit

In addition to the above limit, those large exposures granted that exceed 10 per cent of capital funds (as defined in para 2.4 below) shall not exceed, in aggregate, 800 per cent of the total capital funds of the banking institution.

2. Definitions

The following expressions shall have the meaning assigned to them below:-

2.1 "Exposure"

For the purpose of these Determinations, "exposure" shall have the same meaning as "credit facilities" defined under clause 2.5 below.

2.2 "Large exposure"

Means an exposure which equals to or exceeds 10 per cent of a banking institution's capital funds.

2.3 "Person or Group of Related Persons"

The term "person or group of related persons" in the context of these Determinations shall include the following scenarios:-

Where a person exercises control over a company or companies (either directly or indirectly) or is a partner in a partnership and:

2.3.1 The person borrows from the banking institution concerned -

The person and all the companies over which that person exercises control, either directly or indirectly, and any partnerships, must be regarded as a single customer.

All credit facilities extended to these companies and partnerships must be aggregated with the credit facilities of the person.

2.3.2 The person does not borrow but guarantees his related companies' or partnerships' loans -

All credit facilities extended to these companies and partnerships against a guarantee provided by that person must be aggregated and treated as a single credit risk to the guarantor.

2.3.3 The person does not borrow and does not guarantee - in such cases, the banking institutions must apply a means and purpose test to decide whether the companies over which that person exercises control, either directly or indirectly, and partnership, where such person is a partner, is to be regarded as a single customer. If the means and purpose test is satisfied, then credit facilities extended to each of the companies and partnerships need not be aggregated. If the means and purpose test is not satisfied, the credit facilities extended to each of the companies and partnerships must be aggregated as credit to a single customer.

For the purposes of defining control, the general criteria is that control is deemed to exist when there is ownership or power to control 20 per cent or more of the voting shares of the company or when there is power to determine the composition of the board of directors. In cases where such ownership or power to control 20 per cent or more of the voting shares of the company rests with more than one person, banking institutions are required to exercise their best judgement in ascertaining which one of the two or more persons referred to above, has effective management control over the company. As a rule of thumb, however, the person with the highest voting equity shall be deemed to possess such control, unless circumstances dictate otherwise.
In line with the EC Commission's recommendation, a group of related borrowers includes instances where two or more persons, whether natural or juristic, hold exposures from the same banking institution and any of its subsidiaries, whether on a joint or separate basis, but who are mutually associated in that:

(i) one of them holds directly or indirectly power of control over the other; or

(ii) their cumulated exposures represent to the banking institution a single risk in so much as they are so interconnected with the likelihood that if one of them experiences financial problems the other or all of them are likely to encounter repayment difficulties.

The banking institution shall take the following factors into account in establishing the interconnections: common ownership, common directors or management, guarantees or cross guarantees and direct commercial interdependency which cannot be substituted in the short term.

2.4 "Capital Funds"

For the purpose of the credit limit to a single customer, capital funds shall have the same definition as that used for capital adequacy as determined in terms of sections 28 and 29 of the Act.

2.5 "Credit Facilities"

For purposes of prescribed limit of exposure to a person or group of related persons, the term "credit facilities" shall include all facilities to that borrower (or group of related borrowers), such as on-balance sheet loans, advances, overdrafts, holdings of papers and all direct and indirect obligations of the borrower, as well as off-balance sheet commitments, such as acceptances and guarantees on behalf of the borrower (or group of related borrowers), underwriting facilities, endorsements, placements, documentary credits issued, performance bonds and other contingent liabilities.

3. Guarantees

With respect to a guarantee, banking institutions are reminded that the guarantor has undertaken to be liable for the repayment of the credit facilities if the borrower defaults. The underlying principle, therefore, for purposes of the single customer credit limit, is that all credit facilities extended to a borrower against a guarantee provided by an individual or a corporation (whether or not the guarantor has borrowing from the bank), must be aggregated with the borrowing of and other credit facilities guaranteed by the guarantor.

4. Means and Purpose Test

The means and purpose test is satisfied if:-

(i) The banking institution does not look to the person for ultimate repayment of the credit facilities. Therefore, where a person has provided guarantees for credit facilities to companies, these credit facilities must be aggregated;

(ii) The company is able to obtain credit facilities on the basis of its own financial standing, that is, the corporation must be credit-worthy and must have the resources or income of its own to service the credit facilities; and

(iii) The credit facilities are to be utilised by the company and will not be for the use or accommodation of the person or other companies over which the person exercises control, directly or indirectly (other subsidiaries or affiliate companies).

5. Forward Foreign Exchange Transactions

The amount that shall be included as credit facilities is 10 per cent of outstanding forward contracts. In respect of forward purchases and sales of foreign currency, the risk of default remains, although such transactions are usually covered forward.

6. Exemptions

The following facilities shall be exempted:-

6.1 credit facilities granted to the Government of Namibia (whether local or foreign currency) or extended with the guarantee of the Central Government are exempted; and

6.2 any other form of credit facilities or transactions which the Bank may approve, in writing, from time to time.

7. Minimum Standards

Banking institutions shall note that these Determinations on the single customer credit limit provides the minimum requirements. Some banking institutions have, by their own policy, set stricter criteria for credit limits to a single customer. Those banking institutions which have more stringent rules, especially in respect of lending to a corporate group, should continue to adhere to their own rules.

8. Reporting

Every banking institution shall, within 21 days of the end of each calender quarter (i.e. 31 March; 30 June; 31 September; 30 December), on the form annexed hereto and marked Annexure A, submit to the Bank all its large exposures equal to or exceeding 10 per cent of its capital funds.

9. Sectoral Exposures

Although there is no fixed maximum percentage for the exposures to a particular economic sector, each banking institution shall exercise prudent banking by diversifying its exposures among the different economic sectors as much as possible in order to avoid excessive concentration in any particular sector.

(CONFIDENTIAL AND NOT AVAILABLE FOR INSPECTION BY THE PUBLIC)

[use as many sheets as possible / required]

LARGE EXPOSU
(Exposures amoun

BANKING INSTITUTION: ....

			AMOUNT (N$ Million)							DETAILS OF EX	
				OUTSTANDING							
	Borrower	Type of Facility	Approved limit	Balance sheet items	Off-Balance sheet items	Total	Statutory Exposure	Purpose of Exposure	Sector	Date approved	Maturity date
	1	2	3	4	5	6	7	8	9	10	11
1											
2											
3											

Total Capital Funds computed in terms of section 28 of the Act	
30% of Capital Funds	
800% of Capital Funds	

NOTES

1. **Column 2: Show each facility separately, e.g. borrower ABC Ltd:** (1) Fixed Term Loan
   (2) Overdraft,etc.

2. **Column 7: Enter whichever is higher of the approved limit (column 3) and total outstanding amount (column 6).**
   In the case of fully disbursed fixed term loans, only the amount outstanding should be entered.

3. **Column 9: Based on the main purpose for which the exposure was extended, indicate the economic sector.**

4. **Column 13: Indicate whether the account is current or in arrears. If in arrears, indicate the extent of arrears, e.g. 3,6 months etc.**

....
Principal Officer **Date:**

ANNEXURE A
BID 4

ANNEXURE A

BID 4
QUARTERLY

E
g to 10% or more of capital funds)

Date: ....

...SURE						COLLATERAL				
Interest Rate	Status of facility	Classification	Specific Provision made	Amount Rescheduled	Date Rescheduled	Description	Valuation Details	Valuation N$ million	B/S items % of gross loan and advances	Total exposure as % of capital funds
12	13	14	15	16	17	18a	18b	19	20	21

5. Column 14: If classified, indicate SS = Sub-Standard
DF = Doubtful
BD = Bad

6. Columns 14 to 17: indicate where applicable only.

7. Column 18: (a) Describe collateral, e.g continuing covering mortgage bond over Erf 3478 Dickson Street, Hockland Park.
(b) Indicate when valuation was done, by whom and the basis, etc.

....
Chief Accounting Officer

....
Date:

BANK OF NAMIBIA

No. 123 1998

DETERMINATIONS UNDER THE BANKING INSTITUTIONS ACT, 1998
(ACT NO 2 OF 1998)

In my capacity as Governor of the Bank of Namibia (The Bank), and under the powers vested in the Bank by virtue of section 71(3) of the Banking Institutions Act, 1998 (Act No 2 of 1998), read in conjunction with sections 28 and 29 of the aforementioned Act, I hereby issue the Determinations on Risk - Weighted Capital Adequacy (BID-5), which Determinations shall become effective on 1 July 1998.

T K ALWEENDO
GOVERNOR Windhoek, 2 June 1998

BID-5

DETERMINATIONS ON RISK-WEIGHTED CAPITAL ADEQUACY

Overview

Adequate capital is the foundation of any sound banking system. Its principal function is to serve as a reserve for unexpected losses. Generally, it provides protection to depositors, creditors, deposit insurance funds (if any), central banks and, ultimately, governments. Due to the protection it provides against loss, the maintenance of adequate capital is most often the principal source of public confidence in individual banking institutions and banking systems.

In terms of Sections 28 and 29 of the Banking Institutions Act, 1998 (Act 2 of 1998), the Bank has adopted a risk-based capital measure to assist in the assessment of the capital adequacy of local banking institutions. The principal objectives of this measure are to:

i) make regulatory capital requirements more sensitive to differences in risk profiles among banking institutions;
ii) factor off-balance-sheet exposures into the assessment of capital adequacy;
iii) minimize disincentives to holding liquid, low-risk assets; and
iv) achieve greater consistency in the evaluation of the capital adequacy of major banking institutions, compared to their counterparts, throughout the world.

The determinations on risk-based capital adequacy establish minimum ratios of capital to weighted-risk assets and, generally, banking institutions are expected to operate well above the minimum risk-based ratios. For implementation purposes, the risk-weighted framework will initially focus on assessing capital in relation to credit risk. Further enhancements to incorporate other risks such as interest rate risk and investment risk on securities will be done on an incremental basis in line with developments in international supervision standards and practices.

1. Qualifying Capital for the Risk-Based Capital Ratio

A banking institution's qualifying total capital consists of two types of capital components: "core capital elements" (comprising Tier 1 capital) and "supplementary capital elements" (comprising Tier 2 capital). These capital elements and related terms are explained in detail in Annexure A, and the various limits, restrictions, and deductions to which they will be subject, are discussed below.

1.1. The Components of Qualifying Total Capital

1.1.1 Core Capital Elements (Tier 1 capital)
The tier 1 component of a banking institution's qualifying total capital[1] must represent at least 50 per cent of qualifying total capital and shall consist of the following items that are defined as core capital elements:-

- paid up share capital/common stockholders' equity; and
- disclosed reserves.

1.1.2 Supplementary Capital Elements (Tier 2 capital)
The tier 2 component of a banking institution's qualifying total capital shall consist of the following items that are defined as supplementary capital elements:-

- asset revaluation reserves;
- general provisions/general loan loss reserves;
- hybrid (debt/equity) capital instruments; and;
- subordinated term debt.

The sum of Tier 1 and Tier 2 elements shall be eligible for inclusion in the capital base, subject to the limits outlined in clause 1.2 below.

1.2. Limits and Restrictions

1.2.1 The total of Tier 2 (supplementary) elements shall be limited to a maximum of 100 per cent of the total of Tier 1 elements; and

1.2.2 Subordinated term debt shall be limited to a maximum of 50 per cent of Tier 1 elements.

1.3. Deductions from Capital Funds and Other Adjustments

Certain assets must be deducted from a banking institution's capital funds for the purpose of calculating the risk-based capital ratio. The deductions shall consist of:-

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1 For the purposes of the determinations on capital adequacy, qualifying total capital shall have the same meaning as capital funds, referred to in the Banking Institutions Act, 1998 (Act 2 of 1998).

1.3.1 goodwill, as a deduction from the sum of Tier 1 capital elements;

1.3.2 investments in banking and finance subsidiaries that are not consolidated for accounting or supervisory purposes. These subsidiaries should be consolidated for the purpose of assessing the capital adequacy of banking groups. Where this is not done, deduction is required to prevent the multiple use of the same capital resource in different parts of the group. Deductions for such investments shall be made against the total capital base; and

1.3.3 reciprocal holdings of capital instruments of banking institutions. Reciprocal holdings are cross-holdings resulting from formal or informal arrangements in which two or more banking organizations swap, exchange, or otherwise agree to hold each other's capital instruments. Reciprocal holdings shall be deducted from the total capital base as they tend to inflate the capital position of a bank. Similarly, holdings of capital instruments (in terms of shares, hybrid capital instruments or subordinated term debt) of other banking institutions shall be deducted from the total capital base in view of the systemic dangers that they may pose to the banking system by making it more vulnerable to rapid transmission of problems from one bank to another.

2. The Risk Weights

Qualifying capital as computed above, is measured in relation to different classes of balance sheet and off-balance sheet (OBS) exposures, weighted according to broad categories of relative risk. As mentioned earlier, the focus is on credit risk. The importance of collateral in reducing overall credit risk and the maturity structure of the risk assets has also been taken into account in assigning the risk weights. However, the assignment of various groups of assets to particular risk-weight categories inevitably represents rather broad regulatory judgements. The risk category therefore, need not necessarily bear a precise relationship to the actual credit risk contained in a particular asset or OBS item. With regard to Namibian banking institutions, the framework of weights has been kept as simple as possible and only 4 weights are used:- 0%, 20%, 50% and 100%. Annexure B provides details on the various categories of risk weights.

3. The Conversion Factors for Off-Balance Sheet Items

A straightforward and approximate methodology is used to incorporate the OBS exposures into the risk-weighted capital framework. It entails the conversion of the credit risk inherent in each OBS instrument into an on-balance sheet credit- equivalent by multiplying the nominal principal amount of the OBS item by a credit conversion factor. The resultant credit-equivalent amount is assigned to the appropriate risk category according to the nature of the obligor, or if relevant, the guarantor or the nature of the collateral.

Currently, four credit conversion factors of 0%, 20%, 50% and 100% are used for the various types of instruments (other than foreign exchange and interest rate contracts). Details of the credit conversion factors are given in Annexure C.

In respect of foreign exchange and interest rate contracts, banks are not exposed to credit risk for the full face value of the contract, but only to the potential cost of replacing the cash-flow if the counterparty defaults. The credit equivalent amounts will depend inter alia, on the maturity of the contract and on the volatility of the rates underlying a particular type of instrument. Details of the treatment accorded under the risk-weighted capital framework for foreign exchange and interest rate contracts are given in Annexure D.

4. Computation of Risk Weighted Capital Ratio

1.4.1	Qualifying total capital:	Primary Capital (less Goodwill) plus Secondary Capital (less investment in unconsolidated subsidiaries and reciprocal holdings of other banking institutions' capital).
1.4.2	Total risk-weighted assets:	Sum of risk-weighted on-balance sheet and off-balance sheet items.
1.4.3	Risk-weighted capital ratio:	Qualifying total capital divided by total risk-weighted assets

The risk-weighted capital ratio shall be computed on a consolidated basis.

5. Minimum Supervisory Standards

All banking institutions in Namibia shall meet a minimum ratio of qualifying total capital to total risk-weighted assets of 8 percent, of which at least 4 percentage points should be in the form of tier 1 capital net of goodwill. Upon adoption of the risk-based capital adequacy framework which will come into operation on the effective date of these Determinations, any banking institution that does not meet the minimum capital requirement, or whose capital is otherwise inadequate, is expected to develop and implement a plan acceptable to the Bank of Namibia for achieving an adequate level of capital consistent with the provisions of these Determinations or with the special circumstances affecting the individual institution. In addition, pending compliance with the minimum capital adequacy requirement, any affected banking institution shall avoid any action, including increased risk-taking or unwarranted expansion, that would lower or further erode their capital positions.

The aforementioned plan or proposal submitted by such banking institutions shall provide for full compliance with the minimum capital adequacy requirement not later than a year after the implementation date.

ANNEXURE A

Definition of capital elements

1. Tier 1 Capital (also known as Core Capital or Primary Capital):

includes only permanent shareholders' equity (issued and fully paid ordinary shares/common stock and perpetual non-cumulative preference shares) and disclosed reserves (created or increased by appropriations of retained earnings or other surplus, e.g. share premiums, retained profit, general reserves and legal reserves). In the case of consolidated accounts, this also includes minority interests in the equity of subsidiaries which are less than wholly owned. This basic definition of capital excludes revaluation reserves and cumulative preference shares.

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

2.1 Revaluation Reserves. In some countries, banking institutions (and other commercial companies) are permitted to revalue fixed assets, normally their own premises, from time to time in line with changes in market values. In some of these countries the amount of such revaluations is determined by law. Revaluations of this kind are normally reflected on the face of the balance sheet as revaluation reserves.

Banking institutions in Namibia may include in their Tier 2 capital, only reserves arising from the revaluation of premises and other fixed assets owned by the 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.

2.2 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.

2.3 Hybrid (debt/equity) capital instruments: This heading includes a range of instruments which combine characteristics of equity capital and of debt. Their precise specifications differ from country to country, but they must meet the following requirements:-

- they must be unsecured, subordinated and fully paid-up;

- they must not be redeemable at the initiative of the holder or without the prior consent of the supervisory authority;

- they must be available to participate in losses without the bank being obliged to cease trading (unlike conventional subordinated debt);

- although the capital instrument may carry an obligation to pay interest that cannot permanently be reduced or waived (unlike dividends on ordinary shareholders' equity), it must allow service obligations to be deferred (as with cumulative preference shares) where the profitability of the bank would not support payment.

Cumulative preference shares, having these characteristics, shall be eligible for inclusion in this category. All hybrid (debt/equity) capital instruments intended for inclusion in the capital base of banking institutions in Namibia shall be subject to the approval of the Bank, which will review and decide on the eligibility for inclusion of such instruments on a case by case basis.

2.4 Subordinated term debt: Unlike the hybrid capital instruments, the instruments under this category are not normally available to participate in the losses of a banking institution which continues trading since they are able to absorb losses only in a 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% of Tier 1 capital. In addition, subordinated term debt must satisfy the following conditions:-

- the debt must be unsecured and fully paid-up;

- the debt must have a minimum original fixed term to maturity of five years;

- early repayment or redemption shall not be made without the prior written consent of the Bank;

- 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 banking institution; and

- there shall be no restrictive covenants.

The inclusion of subordinated term debt in the capital base of a banking institution in Namibia requires the approval of the Bank which will review and decide on the eligibility of such instruments on a case by case basis.

ANNEXURE B

Categories of Risk Weights for On-Balance Sheet Assets

1. Hereunder follows a listing of the risk categories, a summary of the types of assets assigned to each category and the weight associated with each category, that is, 0 percent, 20 percent, 50 percent, and 100 percent.

0% Category

- Cash, gold coin and bullion.

- Claims on the Government of Namibia and the Bank of Namibia.

- Claims on OECD central governments and central banks.

  For this purpose, OECD countries would include the 24 full members (namely, Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States of America), and countries which have concluded special lending arrangements with the IMF associated with the Fund's General Arrangements to Borrow (at the moment, only Saudi Arabia). These countries are regarded as nations with high credit standing. Claims on the rest of the world are regarded as bearing significant country transfer risk.

- Claims on non-OECD central governments and central banks denominated in national currency (of the debtor) and funded by liabilities in that currency.

- Claims collateralised by cash or securities issued by the Government of Namibia, Bank of Namibia, OECD central governments and OECD central banks.

- Claims guaranteed by the Government of Namibia, Bank of Namibia, OECD central governments and OECD central banks.

20% Category

- Claims (all maturities) on and claims guaranteed by banking institutions in Namibia. In addition, claims collateralised by securities of, including NCDs issued and Bankers Acceptances accepted by, such banking institutions would also bear a 20% weight.

- Claims on following multilateral development banks

[International Bank for Reconstruction and Development (IBRD), Inter- American Development Bank (IADB), Asian Development Bank (AsDB), African Development Bank (AfDB), European Investment Bank (EIB) and any other institution approved by the Bank of Namibia]

and claims guaranteed by, or collateralised by securities issued by such banks.

- Claims on banks incorporated in the OECD and claims guaranteed by such banks.

- Claims on securities firms incorporated in the OECD subject to comparable supervisory and regulatory arrangements, including in particular risk based capital requirements[2], and claims guaranteed by such firms.

- Claims on banks incorporated in countries outside the OECD with a residual maturity of up to one year and claims with a residual maturity of up to one year guaranteed by banks incorporated in countries outside the OECD.

- Claims on OECD public-sector entities, excluding central government, and loans guaranteed by such entities. Such claims on public-sector entities should however, exclude commercial companies owned by the public sector.

- Claims on Namibian public-sector entities excluding commercial companies owned by the public sector.

- Claims on the central government of RSA.

- Claims on public-sector entities of RSA, excluding commercial companies owned by the public sector.

50% Category

- Loans fully secured by mortgage on residential property that is or will be occupied by the borrower or that is rented. The 50% weight is applicable only to loans secured by first mortgage bond (first charge) on the property. Mortgage loans granted against second or third mortgage bonds may also be accorded a 50% weight provided that the banking institution

2 i.e., capital requirements that are comparable to those applied to banks in this Accord and its Amendment to incorporate market risk. Implicit in the meaning of the word "comparable" is that the securities firm (but not necessarily its parent) is subject to consolidated regulation and supervision with respect to any downstream affiliates.

is also the holder of the first mortgage bond. However, claims on companies involved in residential building or property development would not qualify. A phase-in period of one year from the effective date of these Determinations will be allowed for banking institutions to upgrade their database systems. During this interim period, all mortgage loans (irrespective of the type of mortgage bond held) may be included in the 50% category.

100% Category

- Claims on the private sector. These claims shall include loans and advances and corporate debt securities. The amount of loans and advances to be weighted may be net of specific provision and interest-in-suspense.

- Claims on banks incorporated outside the OECD with a residual maturity of over one year.

- Claims on non-OECD central governments unless denominated in national currency of the debtor and funded in that currency. (Refer to appropriate caption under 0% category).

- Claims on commercial companies owned by the public sector.

- Premises, plant and equipment, real estate and other fixed assets.

- Investments in shares (other than those deducted from the capital base) such as non-consolidated investment participation in other companies.

- All other assets.

ANNEXURE C

Credit conversion factors for off-balance sheet items

1. The framework takes account of the credit risk on off-balance sheet exposures by applying credit conversion factors to the different types of off-balance sheet instruments or transactions. With the exception of foreign exchange and interest rate related contingencies, the credit conversion factors are set out in the table below. They are, inter alia, derived from the estimated size and likely occurrence of the credit exposure, as well as the relative degree of credit risk as identified by international supervisory authorities. The credit conversion factors shall be multiplied by the weights applicable to the category of the counterparty for an on-balance-sheet transaction (see Annexure B).

	Instruments	Credit conversion factors
1.1	Direct credit substitutes, e.g. general guarantees of indebtedness (including standby letters of credit serving as financial guarantees for loans and securities) and acceptances (including endorsements with the character of acceptances).	100%
1.2	Certain transaction-related contingent items (e.g. performance bonds, bid bonds, warranties and standby letters of credit related to particular transactions).	50%
1.3	Short-term self-liquidating trade-related contingencies (such as documentary credits collateralised by the underlying shipments).	20%
1.4	Sale and repurchase agreements and asset sales with recourse, where the credit risk remains with the banking institution.	100%
1.5	Forward asset purchases and partly-paid shares and securities, which represent commitments with certain draw-down.	100%
1.6	Note issuance facilities and revolving under-writing facilities.	50%
1.7	Other commitments (e.g. formal standby facilities and credit lines) with an original maturity of over one year.	50%
1.8	Similar commitments with an original maturity of up to one year, or which can be unconditionally cancelled at any time.	0%

ANNEXURE D

Foreign exchange and interest rate related contingencies

1. The treatment of foreign exchange and interest rate related items needs special attention because banking institutions are not exposed to credit risk for the

full face value of their contracts, but only to the potential cost of replacing the cash flow (on contracts showing positive value) if the counterparty defaults. The credit equivalent amounts shall depend inter alia on the maturity of the contract and on the volatility of the rates underlying that type of instrument.

2. Despite the wide range of different instruments in the market, the theoretical basis for assessing the credit risk on all of them is the same. Since exchange rate contracts involve an exchange of principal on maturity, as well as being generally more volatile, higher conversion factors have been adopted for those instruments which feature exchange rate risks. Interest rate contracts are defined to include single-currency interest rate swaps, basis swaps, forward rate agreements, interest rate futures, interest rate options purchased and similar instruments. Exchange rate contracts include futures, currency options purchased and similar instruments. Exchange rate contracts with an original maturity of 14 calendar days or less are excluded.

3. In order to arrive at the credit equivalent amount of exchange and interest rate contracts, the Basle Committee allows the national authorities to choose one of two approaches, that is, the current exposure method and the original exposure method. Given that the impact on the overall capital ratio is not expected to be significant, the Bank has opted for the simpler original exposure method. Using this (original exposure) method, a banking institution shall apply one of the following two sets of conversion factors to the notional principal amounts of each instrument according to the nature of the instrument and its maturity:

Maturity	**Interest Rate Contracts**	**Exchange Rate Contracts**
Less than one year	0.5%	2.0%
One year or more, but less than two years	1.0%	5.0% (i.e. 2% + 3%)
For each additional year	1.0%	3.0%

4. It is emphasised that the above conversion factors should be regarded as provisional and may be subject to amendment as a result of changes in the volatility of exchange rates and interest rates. In addition, the original exposure method may be used only until market risk-related capital requirements are implemented.

5. Further, consideration has been given to the issue of bilateral netting, that is, weighting the net rather than the gross claims with the same counterparties arising from the full range of forwards, swaps, options and similar derivative contracts. However, genuine concern has been expressed in relation to 'cherry-picking', that is, where a liquidator of a failed counterparty has (or may have) the right to unbundle netted contracts, demanding performance on those contracts favourable to the failed counterparty and defaulting on unfavourable contracts. In view of this, banking institutions may net only contracts subject to novation under which any obligation between a banking institution and its counterparty to deliver a given currency on a given value date is automatically amalgamated with all other obligations for the same currency and value date, legally substituting one single amount for the previous gross obligations.

However, in line with international supervision standards, a banking institution in Namibia that wishes to net transactions subject to novation must satisfy the Bank that it has:-

5.1 a netting contract or agreement with the counter-party which creates a single legal obligation, covering all included transactions, such that the banking institution would only have either a claim to receive or obligation to pay only the net sum of the included transactions, in the event that a counter-party fails to perform due to default, bankruptcy, liquidation or similar circumstances;

5.2 authoritative written and reasoned legal opinions that, in the event of a legal challenge, the relevant courts and administrative authorities will find the banking institution's exposure to be such a net amount under:

- the law of the jurisdiction in which the counter-party is chartered and, if the foreign branch of a counter-party is involved, then also under the law of the jurisdiction in which the branch is located;

- the law that governs the individual transactions; and

- the law that governs any contract or agreement necessary to effect the netting.

6. Once the banking institution has calculated the credit equivalent amounts, they shall be weighted according to the category of counter-party in the same way as in the main framework, including concessionary weighting in respect of exposures backed by eligible guarantees and collateral.

RWCR 1

Consolidated Return on Risk-Weighted Capital Ratio

Computation of Capital Base

Name of Institution:	Return as at	

Constituents of Capital	Amount N$'000
Paid-up ordinary shares	
Paid-up non-cumulative perpetual preference shares	
Share premium	
Statutory Reserve Fund	
Retained profits/(accumulated losses)	
General Reserves	
Current unaudited losses (if applicable) - [Note 1]	( )
Minority interests (consistent with the above capital constituents)	
Sub-total	
Deduct: Goodwill	( )
Total Tier 1 Capital (*1)	

[Note 1 - In line with the principle of conservatism, current unaudited net profits are not eligible for inclusion. However, where certified by banks' external auditors, the operating profits may be included, subject to a frequency not exceeding once every six months. Current unaudited losses have to be set-off aginst the capital base.]

Hybrid capital instruments	
Eligible subordinated term debt (limited to 50% of total Tier 1 capital)	
Actual amount of outstanding subordinated debt - round to nearest N$'000 [ ]	
Revaluation reserves	
General provisions for bad and doubtful debts	
Total Tier 2 Capital	
Eligible Tier 2 Capital (*2) - [Note 2]	

[Note 2 - Restricted to 100% of Tier 1 Capital]

Total Capital (*1 + *2)	
Deduct : Investments in Unconsolidated Subsidiaries	
Deduct : Holdings of other banking institutions' capital	
QUALIFYING TOTAL CAPITAL	

	N$'000
QUALIFYING TOTAL CAPITAL	
TOTAL RISK-WEIGHTED ASSETS	

	%
RISK-WEIGHTED CAPITAL RATIO	

OF WHICH:	%
TIER 1	
TIER 2	

(Note: The sum of the Tier 1 and Tier 2 percentages must equal the Risk-Weighted Capital Ratio)

.... Chief Executive Officer

.... Chief Accounting Officer

.... Date

.... Date

wp1/rwcr1/dj

RWCR 2(a)

Consolidated Return on Risk-Weighted Capital Ratio

Computation of Weighted Risk Assets

Name of Institution :

Return as at

Type of Exposure	On-Balance Sheet Items	Credit Equivalent Of Off-Balance Sheet items	Total	Weighted Risk Assets
	N$'000			
0% Category				
Cash , gold coin and bullion				
Statutory Reserve with Bank of Namibia				
Other Credit Balances with Bank of Namibia				
Government securities, treasury bills and bonds				
Other claims on Government of Namibia				
Foreign notes and coins				
Claims on OECD central governments and central banks				
Claims on non-OECD central governments and central banks denominated in the national currency (of the debtor) and funded by liabilities in the same currency				
Claims collateralized by cash, or Government, Bank of Namibia and OECD central-government securities				
Claims guaranteed by Government, Bank of Namibia, OECD central governments and OECD central banks				
Sub-Total				
20% Category				
Claims on domestic banking institutions				
Claims guaranteed by domestic banking institutions				
Claims on OECD banks and claims guaranteed by OECD banks				
Claims on non-OECD banks and claims guaranteed by non-OECD banks, with a residual maturity of up to one year				
Claims on multilateral development banks				
Claims on OECD public sector entities				
Claims on the central government of RSA				
Claims on public-sector entities of RSA				
Claims on public-sector entities of Namibia				
Sub-Total				

.... Chief Executive Officer

.... Chief Accounting Officer

.... Date

.... Date

RWCR 2(b)

Consolidated Return on Risk-Weighted Capital Ratio
Computation of Weighted Risk Assets

Type of Exposure	On-Balance Sheet Items	Credit Equivalent Of Off-Balance Sheet items	Total	Weighted Risk Assets
	N$'000			

50% Category

Housing loans secured by mortgage on residential property				
Sub-Total				

100% Category

Claims on non-OECD banks with a residual maturity of over one year				
Claims on non-OECD central governments, other those denominated in national currency (of the debtor) and funded in that currency				
Investments in shares (other than those deducted from capital base)				
Investment in fixed assets				
Claims on non-bank private sector				
All other assets				
Sub-Total				

TOTAL				

.... Chief Executive Officer

.... Chief Accounting Officer

.... Date

.... Date

RWCR 3(a)

Consolidated Return on Risk-Weighted Capital Ratio
Conversion of Off-Balance Sheet Items

Name of Institution :	Return as at	

Instruments	Amount	Credit Equivalent
	N$'000	

Direct Credit Substitutes (100%)

Standby letters of credit serving as financial guarantees		
Others		
Sub-total		

Assets Sold With Recourse and Commitments With Certain Drawdown (100%)

Sale of loans with recourse		
Other assets sold with recourse		
Forward asset purchases		
Unpaid portion of partly-paid shares/securities		
Others		
Sub-total		

Specific Transaction-Related Contingencies (50%)

Performance/bid bonds		
Standby letters of credit related to specific transactions		
Others		
Sub-total		

Obligations Under Underwriting Agreements (50%)

Notes issuance facilities and revolving underwriting facilities (NIFs and RUFs)		
Underwriting of shares/securities issue		
Others		
Sub-total		

Other Commitments with an Original Maturity of Over One Year (50%)

Formal standby facilities and credit lines		
Undrawn term loans		
Others		
Sub-total		

....

Chief Executive Officer Chief Accounting Officer

....

Date Date

RWCR 3(b)

Consolidated Return on Risk-Weighted Capital Ratio
Conversion of Off-Balance Sheet Items

Instruments	Amount	Credit Equivalent
	N$`000	

Self-Liquidating Trade-Related Contingencies (20%)

Documentary letters of credit		
Shipping guarantees		
Others		
Sub-total		

Other Commitments with an Original Maturity of up to One Year, or which can be Unconditionally Cancelled at Any Time (0%)

Formal standby facilities and credit lines		
Undrawn term loans		
Undrawn overdraft facilities		
Others		
Sub-total		

Foreign Exchange and Interest Rate Related Contingencies

Foreign Exchange and Interest Rate Related Contracts		

Total		*

[* - should tally with total credit equivalent of Off-Balance Sheet Items reported in Form RWCR 2(b)]

....
Chief Executive Officer Chief Accounting Officer

....
Date Date

BANK OF NAMIBIA

No. 124 1998

DETERMINATIONS UNDER THE BANKING INSTITUTIONS ACT, 1998
(ACT NO 2 OF 1998)

In my capacity as Governor of the Bank of Namibia (The Bank), and under the powers vested in the Bank by virtue of section 71(3) of the Banking Institutions Act, 1998 (Act No 2 of 1998), read in conjunction with section 31 of the aforementioned Act, I hereby issue the Determinations on Minimum Liquid Assets (BID-6), which Determinations shall become effective on 1 July 1998.

T K ALWEENDO
GOVERNOR Windhoek, 2 June 1998

BID -6

DETERMINATIONS ON MINIMUM LIQUID ASSETS REQUIREMENT

Overview :

Liquidity is generally evaluated on the basis of a banking institution's capacity to promptly meet the demand for payment of its obligations and to readily fulfill the reasonable credit needs emanating from the community it serves. This implies that banking institutions should, on a daily basis, have committed funds to meet these obligations, have a stock of sufficient assets that can be liquidated at no or minimal cost to meet these obligations and have adequate contingency plans to meet extraordinary demands or circumstances.

Inadequate liquidity can lead to unexpected cash shortfalls that have to be covered at inordinate costs. If deposit withdrawals for example, exceed the banking institution's ability to obtain those funds except at a considerably higher-than-normal cost, this not only results in reduction in profitability but may also lead to a solvent banking institution becoming insolvent. Conversely, excessive liquidity can lead to low asset yields and contribute to weaker earnings performance.

The liquid assets requirement is an integral component of the prudential management of a banking institution. These Determinations lay down the minimum requirements on liquid assets to ensure that banking institutions maintain a given level of liquidity to meet anticipated and contingent cash needs. Banking institutions, however, are encouraged to assess their individual liquidity risk profile and where deemed necessary, maintain liquid assets holdings in excess of the minimum statutory requirement.

1. Liquidity Management

All banking institutions must, as a minimum requirement, have written policies on liquidity management which ensure daily compliance with the statutory liquid assets requirement. These policies, including procedures, should address the cash flow management of the banking institution to ensure the short-term matching of out-going commitments and inflow of funds, management of marketable assets to ensure adequate stock of liquid assets and the borrowing capacity of the banking institution to ensure its ability to borrow market funds at short notice.

2. Minimum Liquid Assets Requirement

2.1 A banking institution shall hold an average daily amount of liquid assets in Namibia which shall not be less than an amount equal to **10** per cent of the average daily amount of its total liabilities to the public for the preceding month as shown in the latest monthly return as per **Annexure A** furnished to the Bank in accordance with paragraph 3 of these Determinations: Provided that the minimum amount of liquid assets held on any day during the period specified in paragraph 4 below shall not be less than an amount equal to **75** per cent of the average daily amount of liquid assets required to be held by the banking institution in terms of these Determinations.

2.2 No foreign currency assets shall qualify as liquid assets.

3. Reporting

3.1 A banking institution shall furnish to the Bank, on or before the 21st day of each calender month, the return referred to in para 2.1 which shall be certified as correct by the Principal Officer and Chief Accounting Officer of the banking institution in Namibia containing the information required by the Bank so as to enable it to establish whether the institution maintains the liquid assets required under paragraph 2 above.

__EXAMPLE:__ The liquidity compliance for the month of July 1998 which covers the compliance period of 15th of July to 14th August 1998 must be reported by not later than the 21st of August 1998, based on the following:-

- Average daily liquid assets holdings over the period 15th of July 1998 to 14th of August 1998.
- Average daily total liabilities to the public as computed over the month of June 1998.

3.2 Notwithstanding this requirement, banking institutions must report to the Bank immediately, in accordance with the provisions of section

31(2) of the Banking Institutions Act, in the event that their liquid assets holdings, on any day, falls short of the legal requirement. The banking institutions are required to state the reason(s) for such failure and to indicate how and when the failure is to be rectified. In addition, the banking institutions are required to explain the steps to be taken to ensure such failure will not occur again.

4. Period of Maintenance of Minimum Required Amounts

A banking institution shall maintain the minimum amounts contemplated in paragraph 2 of these Determinations during the compliance period, that is, from the fifteenth day of the month to which a particular return relates, up to and including the fourteenth day of the following month.

5. Average Daily Amount of Total Liabilities to the Public

5.1 For the purposes of these Determinations, average daily amount of total liabilities to the public shall be determined by aggregating the total liabilities of all the days in a given month divided by the number of the days of the same month. In determining the average as described above, the total liabilities as at the end of the previous working day shall be used for liabilities on Sundays and Public Holidays. Total liabilities (incl. foreign liabilities) mean deposits (net of investment in negotiable certificate of deposits and interbank term deposits/ loans[1]), loans and advances received and other liabilities to the public; but shall exclude capital funds.

5.2 Liabilities under acceptances shall be excluded.

6. Assets Pledged or Otherwise Encumbered

6.1 Unless specifically or generally approved by the Bank in writing, no liquid assets used for the fulfilment of the requirements of paragraph 2 of these Determinations shall be pledged or otherwise encumbered.

6.2 Securities lodged with the Bank to secure facilities shall not be regarded as pledged except to the extent that they are required to secure facilities actually utilised.

7. Composition of Liquid assets

7.1 For the purposes of these Determinations, liquid assets comprise:-

(a) Notes and coins which are legal tender in Namibia, gold coin and bullion;

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1 Whilst net interbank deposits repayable on demand are accorded liquid asset status, net interbank deposits of a term nature are not. However, these term deposits are allowed to be netted off against the total liability base.

(b) Clearing account balances held with Bank of Namibia;

(c) Call account balances held with Bank of Namibia;

(d) Securities of the Bank of Namibia;

(e) Treasury Bills of the Government of Namibia;

(f) Stocks, securities, bills and bonds of the Government of Namibia;

(g) Securities and bills of the Agricultural Bank of Namibia which are guaranteed by the Government of Namibia and with a remaining maturity of not more than three years; and

(h) Net amount of loans and deposits, repayable on demand, with Namibian banking institutions other than a subsidiary or fellow subsidiary of the banking institution concerned or of a banking institution by which the banking institution concerned is controlled directly or indirectly.

7.2 For calculation of liquid assets for the purposes of liquid assets requirement in terms of these Determinations, all reciprocal deposits with other banking institutions shall be netted out.

ANNEXURE A
BID 6

MINIMUM LIQUID ASSETS

(Confidential and not available for inspection by the public)

Name of institution.. For the month of ....

(Covering the compliance period commencing the 15th of the abovementioned month up to the 14th of the following month)

	Line No.	Amount (N$' 000) 1
Average total deposits (incl. NCDs issued)*	1	
Average amount of loans and advances received	2	
Average amount of other liabilities to the public (Excl. capital)	3	
Average total liabilities to the public (totals of line item 1 - 3)**	4	
Liquid assets required to be held over the compliance period at 10% of line item 4, column 1	5	
Average daily amount of liquid assets held over the compliance period (totals of line items 7-14)	6	
Notes and coins which are legal tender in Namibia, gold coin and bullion	7	
Clearing account balances held with Bank of Namibia	8	
Call account balances held with Bank of Namibia	9	
Securities of the Bank of Namibia	10	
Treasury Bills of the Government of Namibia	11	
Stocks, securities, bills and bonds of the Government of Namibia	12	
Securities and bills of the Agricultural Bank of Namibia which are guaranteed by the Government of Namibia and with a remaining maturity of not more than three years	13	
Net amount of loans and deposit, repayable on demand, with Namibian banking institutions other than a subsidiary or fellow subsidiary of the banking institution concerned or a banking institution by which the banking institution concerned is controlled directly or indirectly	14	
Excess/deficiency (line item 6 above less line item 5)	15	

* *Investments in NCDs and interbank term deposits/loans should be set-off against total deposits.*
** *For line items 1 to 4, data is based on the preceding calendar month.*

....
Principal Officer

....
Date

....
Chief Accounting Officer

....
Date

BANK OF NAMIBIA

No. 125 1998

DETERMINATIONS UNDER THE BANKING INSTITUTIONS ACT, 1998 (ACT NO 2 OF 1998)

In my capacity as Governor of the Bank of Namibia (The Bank) and under the powers vested in the Bank by virtue of sections 71(3) of the Banking Institutions Act, 1998 (Act No 2 of 1998), read in conjunction with section 33 of the aforementioned Act, I hereby issue Determinations on Minimum Local Assets (BID-7), which Determinations shall become effective on 1 July 1998.

T K ALWEENDO
GOVERNOR Windhoek, 2 June 1998

BID-7

DETERMINATIONS ON MINIMUM LOCAL ASSETS

1. A banking institution shall maintain minimum local assets situated in Namibia of an aggregate value not less than 100 per cent of the amount of its liabilities payable in Namibia Dollars, excluding capital funds.

2. In the event of the minimum local assets of a banking institution falling below the minimum requirement as determined in clause 1 thereof, this shall be reported in writing to the Bank of Namibia within 2 working days of each occurrence. Such report shall set out the reason(s) for non compliance and shall also state the duration thereof.

3. "Local asset" means any asset denominated in Namibia Dollar and situated in Namibia.

BANK OF NAMIBIA

No. 126 1998

DETERMINATIONS UNDER THE BANKING INSTITUTIONS ACT, 1998 (ACT NO 2 OF 1998)

In my capacity as Governor of the Bank of Namibia (The Bank), and under the powers vested in the Bank by virtue of section 71(3) of the Banking Institutions Act, 1998 (Act No 2 of 1998), read in conjunction with section 64(6) of the aforementioned Act, I hereby issue the Determinations on Fees payable (BID-8), which Determinations shall become effective on 1 July 1998.

T K ALWEENDO
GOVERNOR Windhoek, 2 June 1998

BID-8

DETERMINATIONS ON FEES PAYABLE IN TERMS OF SECTION 64(6) OF THE BANKING INSTITUTIONS ACT, 1998.

1. Fees payable

1.1. Inspect or obtain a copy of:-

(a)	certificate of authorization	N$100.00
(b)	memorandum of association or articles of association of a banking institution (per sheet or part thereof)	N$10.00

2. Manner of payment of fees

Fees payable in accordance with these Determinations shall be payable to the Bank of Namibia at its head office in Windhoek or any office so designated by it for this purpose and shall be paid by cheque, postal order or money order made out in favour of or payable to the Bank of Namibia and no amount so paid shall be refundable.