GOVERNMENT NOTICE NO. 27

BANKING ACT
(CAP. 44:01)

BANKING (PREMISES INSPECTION) DIRECTIVE, 2018

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

PART I—PRELIMINARY

Citation

1. This Directive may be cited as the Banking (Premises Inspection) Directive, 2018.

Interpretation

2. In this Directive unless the context otherwise requires—

"agency" means an outlet of a bank offering a limited range of banking services which reports to a branch;

"agent" means an entity that has been contracted by a bank to provide banking services on behalf of the bank;

"banking premises" means physical premises from which a bank conducts or intends to conduct banking business;

"branch" means a physical location where a bank offers full range of banking products and services without restrictions except as prescribed by the Registrar;

"kiosk" means a physical location that offers a limited range of banking services daily or on selected days and is smaller in size and infrastructural requirements than an agency and reports to a branch; and

"mobile van" means a bank's motor vehicle that takes banking facilities to customers.

PART II—OBJECTIVES

Objectives

3. The objectives of this Directive are to ensure that—

(*a*) banks operate in safe premises with necessary security arrangements and operational infrastructure;

(*b*) banking premises are of acceptable standards to command the trust and confidence of the general public; and

(*c*) banking premises are maintained commensurate with the changing times and environment.

PART III—REQUIREMENTS

Recognized premises

4.—(1) The Registrar shall only recognize branches, agencies, kiosks and mobile vans as acceptable banking premises.

(2) Where a bank intends to employ agents to offer banking services, the bank shall comply with the Financial Services (Agent Banking) Regulations.

Prior approval

5.—(1) A bank shall seek prior written approval from the Registrar in respect of—

(*a*) acquisition, renovations or construction works of new premises;

(*b*) establishment of new banking premises;

(*c*) upgrading or merging of banking premises; and

(*d*) closure or downgrading of banking premises.

Conditions for granting

6.—(1) In granting approval for applications under paragraph 5 the Registrar shall consider among other things the following—

(*a*) proposed location;

(*b*) justification for the application;

(*c*) impact on the financial inclusion agenda;

(*d*) most recent financial performance and condition of the bank; and

(*e*) whether the bank is not under any administrative or remedial sanctions.

(2) The Registrar shall render his decision within ten (10) days of receiving a complete application.

Occupation of premises

7.—(1) A bank shall apply to the Registrar for premises inspection at least two (2) weeks prior to occupying the premises. Such application shall include—

(*a*) a copy of a letter from the Registrar in which prior written approval was granted in terms of paragraph 5;

(*b*) specific date on which the premises are expected to open for business;

(*c*) preferable dates on which the Registrar could conduct an inspection of the premises;

(*d*) precise physical location of the premises; and

(*e*) details of the representatives of the bank who will accompany the Registrar's staff to the premises including their names, telephone numbers, or email addresses.

(2) The Registrar shall assess the suitability of the premises in line with the requirements set out in the Schedule hereto.

(3) Where banking premises do not satisfy the minimum requirements set out in this directive—

(*a*) the bank shall rectify the shortfalls;

(*b*) the Registrar shall re-inspect the premises before certification; and

(*c*) the bank shall bear all costs for the re-inspection.

(4) The Registrar shall issue a premises inspection certificate to the bank upon being satisfied with the suitability of the premises. In the case of a mobile van, the Registrar shall issue an approval letter instead of a certificate.

(5) A bank shall conspicuously display in the banking hall, the premises inspection certificate or approval letter and a copy of its banking licence.

Routine premises insepection

8.—(1) The Registrar may conduct routine premises inspection exercises to ensure that banks are maintaining their premises to the required standards.

(2) Where a bank fails a routine premises inspection—

(*a*) the Registrar shall impose a penalty as prescribed in paragraph 10 (1), and;

(*b*) the bank shall rectify the deficiency within the time period stipulated by the Registrar.

(3) If upon a re-inspection, or expiry of deadline provided in paragraph 8 (2) (*b*) the deficiencies remain uncorrected, the Registrar may—

(*a*) revoke the premises inspection certificate for that branch, agency or kiosk; or

(*b*) revoke the approval letter in the case of a mobile van.

9. The Registrar shall impose a fee of K5,000,000 for replacement of a premises inspection certificate. Premises inspection replacement fee

PART IV—ENFORCEMENT

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

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

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

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

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

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

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

11. In addition to the monetary penalty imposed in paragraph 10 the Registrar may impose directions, administrative penalties and enforcement action as provided for under the Act. Administrative penalties

12. The Banking (Premises Inspection) Directive, 2012 is hereby revoked. Revocation of G.N. 44/2012

SCHEDULE (para. 7(2))

MINIMUM REQUIREMENTS FOR BANKING PREMISES

1. Below are the minimum features that a bank shall install in its business premises. Some are mandatory (designated M), while others are optional (O) depending on whether the premises are a bank head office (Head Office), bank branch (Branch), bank agency (Agency), bank kiosks (Kiosk) or bank mobile van (Mobile Van). Where a feature is not applicable, the designation (N/A) has been used.

2. Many of the requirements are either optional or not applicable for all head offices of banks.

3. A banks shall take all necessary measures to ensure that there is adequate security and operational infrastructure commensurate with all their head office operations in their head office premises.

CHARACTERISTICS	Head Office	Branch	Agency	Kiosk	Mobile Van
1. General Outside Surroundings—					
(*a*) ensure that the outer walls are of strong reinforcement materials	M	M	M	M	M
(*b*) windows must have blinds or tinted to obscure outsiders from observing transactions conducted in the banking hall	O	M	M	M	M
(*c*) windows must be reinforced	M	M	M	M	M
(*d*) the surrounding perimeter must have all the necessary security features to cater for the day and night. Such security features to include—	M	M	M	M	M
(i) alarm system that must be connected to bank management and security service provider or police for speedy communication					
(ii) security lights	M	M	M	M	M
(iii)a fence	O	M	M	O	M
(iv)security guards or commissionaires for day and night who should have access to alarm system and some sort of communication where possible; and	M	M	M	M	N\A
(v) signage post showing the name of the bank that must be conspicuously displayed	M	M	M	M	M
(*e*) in addition to the above, a mobile van must have—					
(i) satellite tracking system; or N/A	N/A	N/A	N/A	M	
(ii) some mode of communication with the controlling station which should include secret distress buttons	N/A	N/A	N/A	N/A	M
(iii) instructions on reaction to threat for both the crew and the controlling station	N/A	N/A	N/A	N/A	M
(iv) standby arrangements with some capable security force while the vans are mobile	N/A	N/A	N/A	N/A	M
(*f*) entrance/exit doors must be protected (e.g. with intruder alarm, strong steel trellis bars or burglar bars)	M	M	M	M	M
(*g*) the premises should at least have a customers' car park, and	M	M	O	O	N/A

CHARACTERISTICS	Head Office	Branch	Agency	Kiosk	Mobile Van
(*h*) the premises should have ample space at the back to allow vehicles that come with large sums of money	N/A	M	M	O	N/A
(*i*) availability of Auto Teller Machines (ATMS)	O	O	O		O
(i) ATMS if available should be located in a secure place to ensure ample privacy for customers	M	M	M	M	M
(ii) ATMs outside traditional banking premises must have security personnel on site who should have access to a hand held or fixed panic button	M	M	M		N/A
(iii)there should be Fixed CCTV cameras positioned in strategic areas at ATMS	M	M	M		N/A
(iv) warning about skimming including details of customer helpline to report incidents should be displayed on the ATM devices	M	M	M		N/A
CHARACTERISTIC					
2. General Inside Surroundings					
(*a*) ensure that the banking hall is spacious and comfortable to customers and has provisions to cater for customers with physical disabilities. Commissionaire or a bank's designated member of staff should be at hand to assist such customers	M	M	M	O	N/A
(*b*) chairs should be provided in case of long waiting periods	M	M	M	M	N/A
(*c*) ensure counters are well elevated, and reasonably wide	N/A	M	M	M	M
(*d*) cashier counters must be protected with bullet proof glasses					
(*e*) cashier counters must be protected with shatter proof glasses	N/A	N/A	M	M	N/A
(*f*) all counters should be well labelled to guide customers	N/A	M	M	O	O
(*g*) there must be a special provision for large deposits, securely located	N/A	M	O	O	N/A
(*h*) the safes must be strong enough to ensure security	M	M	M	M	M
(i) availability of strong room or vault cash room	O	M	M	O	N/A

CHARACTERISTICS	Head Office	Branch	Agency	Kiosk	Mobile Van
(*j*) the strong room or vault cash room if available must be dual controlled, securely located, made of heavy iron, and preferably fire proof	M	M	M	M	N/A
(*k*) the teller's cubicle must have panic buttons that are connected to bank management and the Police or security service provider for rapid response	N/A	M	M	M	M
(*l*) time response when panic button is pressed must be quick enough to suppress any theft or burglary e.g. 5 to 10 minutes.	M	M	M	M	M
(*m*) the manager's position must have direct and speedy communication with the police or security service provider	M	M	M	M	M
(*n*) ensure that there are monitoring cameras (closed circuit television system) in all the strategic areas, e.g. entrance or exit doors, banking hall, corridors, and front and back yard	M	M	M	M	M
(*o*) all strategic areas must have					
(i) smoke detectors	M	M	M	M	M
(ii) fire extinguishers that must be annually tested for functionality	M	M	M	M	M
(iii) emergency exit doors (e.g. one way opening from inside) and an Emergency Evacuation Plan	M	M	M	O	O
(iv) a roof which is properly secured	O	O	O	O	O
(*p*) for speedy communication, ensure that					
(i) reliable telephone; and	M	M	M	M	M
(ii) telefax facilities are available	M	M	O	O	O
3. Other Features					
(*a*) utilities such as electricity, water, etc. must be available	M	M	M	M	N/A
(*b*) banking premises must to have a standby power generator or uninterruptible power supply (UPS) to cater for periods of power failures	M	M	M	O	N/A
(*c*) the premises must have an off-site back-up centre for their data and systems	M	M	M	M	M

Made this 3rd day of April, 2018.

D. KABAMBE, PhD
Registrar of Financial Institutions

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