GOVERNMENT NOTICE NO. 34

FINANCIAL SERVICES ACT

(CAP. 44:05)

FINANCIAL SERVICES (SUPERVISORY LEVY FOR BANKS) REGULATIONS, 2018

ARRANGEMENT OF REGULATIONS

REGULATION

PART I—PRELIMINARY

1. Citation
2. Interpretation

PART II—OBJECTIVES

3. Objectives

PART III—PAYMENT AND ASSESSMENT OF SUPERVISORY LEVY

4. Methodology for assessing supervisory levy
5. Payment of supervisory levy
6. Review of methodology for assessing supervisory levy
7. Use of supervisory levy

PART IV—ENFORCEMENT

8. Enforcement
9. Administrative penalties
10. Revocation

IN EXERCISE of the Powers conferred under section 13 of the Financial Services Act, I, GOODALL EDWARD GONDWE, Minister of Finance, and Economic Planning and Development, make the following Regulations—

PART I—PRELIMINARY

Citation

1. These Regulations may be cited as the Financial Services (Supervisory Levy for Banks) Regulation, 2018.

Interpretation

2. In these Regulations, unless the context otherwise requires—

"Act" means Financial Services Act; Cap. 44: 05

"bank" has the meaning ascribed to that term in the Banking Act; Cap. 44:01

"banking business" has the meaning ascribed to that term in the Banking Act; Cap. 44: 01

"non–performing loans" has the same meaning as defined in the Financial Services (Financial Asset Classification for Banks)– Directive;

"Registrar" means the Registrar of Financial Institutions appointed under the Act; and

"regulatory governance" means the capacity to manage resources efficiently and to formulate, implement, and enforce sound prudential policies and regulations within the premises of legal mandate and in accordance with internationally accepted supervisory standards.

PART II—OBJECTIVES

Objectives

3. The objectives of these Regulations are to—

(*a*) ensure that banks contribute towards the costs incurred by the Registrar in discharging his supervisory functions; and

(*b*) strengthen and enhance a sound regulatory governance framework that will promote financial sector stability and soundness in Malawi.

PART III—PAYMENT AND ASSESSMENT OF SUPERVISORY LEVY

Methodology for assessing supervisory

4.—(1) A bank shall pay a supervisory levy as set out in the Schedule.

(2) The amount of supervisory levy payable under regulation 4 (1) above shall be subject to—

(*a*) a minimum supervisory levy of twenty five million Kwacha (K25,000,000) or such minimum amount as the Registrar may prescribe through a circular to all banks; and

(*b*) a maximum supervisory levy of seventy five million Kwacha (K75,000,000) or such maximum amount as the Registrar may prescribe through a circular to all banks.

(3) The non-performing loan ratios prescribed in subregulation 4 (1) above shall be based on audited financial statements of the bank of the preceding financial year.

(4) Where audited financial statements have not been provided to the Registrar within the timelines stipulated in the Act or the Financial Services (Annual Audits for Banks) Directive, the non-performing loan ratios shall be based on December call reports of the preceding financial year.

(5) A bank shall pay the supervisory levy prescribed under this provision to the Registrar by 30th April of each year.

Payment of supervisory levy

5.—(1) The Registrar shall—

(*a*) debit the supervisory levy from the main account of the bank maintained at the Reserve Bank of Malawi; and

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

(2) Where the bank does not maintain an account with the Reserve Bank of Malawi, the bank shall pay the supervisory levy through a bank certified cheque or electronic transfer payable to the Reserve Bank of Malawi within ten (10) working days after being notified by the Registrar.

Review of methodology for assessing supervisory levy

6.—(1) The methodology for assessing and determining the amount of supervisory levy to be paid by a bank as prescribed in regulation 4 above, shall be subject to review from time to time by the Registrar through circulars to banks.

(2) A newly licensed bank shall not be subject to assessment of supervisory levy until after twelve months from date of commencement of its operations.

(3) The waiver in subregulation 6 (2) shall not apply to new entities arising from mergers, amalgamations, acquisitions, conversions or similar transactions.

Use of supervisory levy

7. All supervisory levies and penalties collected under these Regulations shall accrue for the benefit of the Registrar in his discharge of supervisory functions in line with the provisions of the Act.

PART IV—ENFORCEMENT

Enforcement

8.—(1) The Registrar shall impose a penalty interest, for each day of default, at the ruling bank rate on a bank which fails to pay the supervisory levy within the period stipulated under regulation 5.

(2) The penalty in subparagraph (1) shall not be annualized.

Administative penalties

Cap 44:01

9. In addition to the penalty interest prescribed in regulation 8, the Registrar may impose directions, administrative penalties and enforcement actions as provided for in the Act and the Banking Act.

Revocation of G. N. 26/2012

10. The Financial Services (Supervisory Levy for Banks) Regulations 2012 are hereby revoked.

SCHEDULE

PAYMENT AND ASSESSMENT OF SUPERVISORY LEVY

1. Bank that has a non-performing loans ratio of 5% or less shall pay a supervisory levy amounting to 0.1 percent of the value of its non-performing loans.
2. Bank that has a non-performing loans ratio of above 5 % but not more than 10% shall pay a supervisory levy amounting to 0.15% of the value of its non-performing loans.
3. Bank that has a non-performing loans ratio of above 10% but not more than 15% shall pay a supervisory levy amounting to 0.20% of the value of its non-performing loans.
4. Bank that has a non-performing loans ratio of above 15% but not more than 20% shall pay a supervisory levy amounting to 0.25% of the value of its non-performing loans.
5. Bank that has a non-performing loans ratio of above 20% shall pay a supervisory levy amounting to 0.30% of the value of its non-performing loans.

Made this 13th day of April, 2018.

GOODALL E. GONDWE
Minister of Finance, Economic Planning and Development

(FILE NO. FIN/PFSPD/03/04)