

Rt. Hon Speaker
P.O BOX 7174,
KAMPALA.

Dear Honorable,

RE: AMENDMENTS

Interpretation

- 1) Registrar to include District Registrar Cooperative Office.

Justification

- i. Cooperative officers are the ones in charge of local Cooperative Societies in villages.
- ii. To bring control of cooperative Societies in the arm bit of the centre.
- iii. To monitor Cooperative Societies better.

Cooperative Bank- Mans a bank formed purposely to serve primary cooperatives.

- 2) Area of operation of Cooperative Society dealing in produce shall be an area solely in produce shall be an area solely in produce and no other entity shall be allowed in that area.

Justification

To protect the Cooperative society dealing in produce especially agricultural.

Clause 2

To insert after 2 (4), a new sub clause;

Every district shall have a District Cooperative Officer and other staff who will report to the Commissioner of Cooperatives or a person designated by him/her.

(1)

Justification

To ensure close Supervision and Monitoring of Cooperative Societies in districts where Cooperative Societies are found.

Amendment to Section 8

Insert 8 (4). A Cooperative Society shall be deregistered if its membership falls below the prescribed number in Section 4.

Clause 9 Delete

Justification

12 years cannot contract under Ugandan laws.

Justification

To avoid society operating without the required minimum members.

Clause 10

- i. 2(a) Delete Supervisory committee and put Audit committee.

Justification

There are no supervisory committees in societies and if established this will cause conflict of interest. Instead we should have Audit Committees.

- ii. Insert 3 (d) Patronize in the society.

Justification

Every member should patronize the society to grow and attend its objectives it was set up for.

Clause 12

- 1) Insert 18(A) 4 Immediately after (3). (4) The board shall serve for a term of five (5) years and legible for re-election.

Justification

- i. For continuity and supervision of the management which can manipulate the institution.
- ii. Secondly, to avoid electioneering and this will lead to development of the society.
- iii. Thirdly, for non-performers or wrong person there is mechanism to remove them

- 2) Delete 9 (e)

Discriminatory. Art.29

- 3) 9 (f) Delete (f)

- 4) Delete (18 B)

Justification

You cannot have a board in a board.

_ We can establish Audit Committee

18 B **Audit Committee**

- i. Every society shall appoint an Audit Committee of not less than two members.
- ii. The Audit Committee shall receive and deliberate on the report of the Internal Audit AND then shall report to the General Meeting.
- iii. Their findings shall be submitted to the board for action failure of the board, Audit Committee shall report to the registrar.

3

Justification

To improve management of societies

Clause 15-Amendment to section 23

- 1) No person - Delete from not up to 2)) shall Substitute Recognized accounting Body with Institute Of Certified Public Accountants of Uganda as per Accountants Act.

Justification

To allow consistency like in Company Act and other laws.

Delete 23 (2) – Is not applicable

23 (2) The Registrar in Consultation with ICPA (U) may appoint a person who previously served as an assistant Registrar and above to audit primary societies.

Justification

Primary societies are usually small entities which cannot be audited by associates.

23 (5) Amend 3 months to 6 months.

Justification

To align with the National Audit Act

Amend 52 (5) - Delete Care taker

Justification

Consequential

Insert new clauses after 55A

Cooperative Governance and Supervision of SACCOS AND COOPERATIVE BANK

Import Section 52- 81, from the Financial Institutions Act. Except where there is Central Bank put Registrar.

*Financial Institution put SACCO,
(Attached)*

Justification

These are like banks and should have the same procedures.

After: Insert a new clause - with Head note**Cooperative Bank**

- i. There shall be Cooperative Bank to serve the interest of the Cooperative Societies and its individual members as per Section 45.
- ii. This bank shall be regulated by the Central Bank.

Clause 27

- 1) Amend 75 (1)
- 2) 75 (2)- should remain.

Justification

The chief Justice should make rules.

Insert PART X11- TRAINING

- i. There shall be training of Cooperative officers, staff and members of committees of the Cooperative Societies in Kigumba Cooperative College Tororo Cooperative College.
- ii. This college shall be managed and run by the Ministry responsible for cooperatives.
- iii. The education fund shall be applied to development of this college.
- iv. This college shall develop the cooperative knowledge to be applied even to the last member of the Cooperative Society.
- v. Any other incidentals in relation to Cooperatives Education



ACTS**SUPPLEMENT No. 1****26th March, 2004.****ACTS SUPPLEMENT***to The Uganda Gazette No. 14 Volume XCVII dated 26th March, 2004.*

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**Act 2
2004***Financial Institutions Act*

THE FINANCIAL INSTITUTIONS ACT, 2004.

ARRANGEMENT OF SECTIONS.

PART I—PRELIMINARY.

Sections.

1. Short title.
2. Application of Act.
3. Interpretation.

PART II—LICENSING.

4. Prohibitions against transacting financial institution business.
5. Deposit advertisements.
6. Corporate powers outside Uganda.
7. Prohibitions against use of the word 'bank' or its derivatives.
8. Search and seizure.
9. Repayment of moneys by unauthorized persons.
10. Application for a licence.
11. Factors to be considered in making a decision to grant a licence.
12. Processing, granting and refusal of licence.
13. Licence fee.
14. Duration and display of licence.
15. Amendment and restriction of licence.
16. Failure to commence operations.
17. Revocation of licence.

PART III—SHAREHOLDING IN FINANCIAL INSTITUTIONS.

18. Prohibitions on share holding in financial institutions.
19. Persons who are not fit and proper not to become substantial shareholders.

(2) A financial institution shall exhibit on a half yearly basis, in the banking hall of each of its offices and branches a copy of its un-audited financial statement stating the fact that they are not audited.

(3) A financial institution shall exhibit throughout the year in a conspicuous place in the banking hall of each of its offices and branches a copy of its audited annual financial statements together with the auditor's report.

(4) A financial institution which fails to publish the audited annual financial statements within the period prescribed in subsection (1) of this section shall pay to the Central Bank a civil penalty of twenty currency points for each day on which the default continues.

51. Where the Central Bank is satisfied that the audited annual financial statements of a financial institution do not comply with the requirements of this Act or contain information that may be misleading in any way, or are not published in the form and with the contents specified by this Act, the Central Bank may require the financial institution to—

Rectification of audited annual financial statements

- (a) amend or correct the audited annual financial statements to comply with this Act or any other additional requirements;
- (b) correct the misleading information;
- (c) re-publish the amended or corrected audited annual financial statements;
- (d) submit to the Central Bank any further documents or information or explanations relating to any document or information.

Submit full Financial Institution with SACCO CE

PART VII—CORPORATE GOVERNANCE.

4

AND 52. (1) Every financial institution shall have a board of directors of not less than five directors.

Appointment of board of directors

Central Bank with Registrar.

(2) The board of directors shall be headed by a Chairperson who shall be a non-executive director.

(3) Notwithstanding anything to the contrary in any other written law, or any agreement, not more than fifty percent of the directors of the financial institution shall be employees of the ~~financial institution~~^{S.A.C.C.O} or any of its subsidiaries or affiliates except in such cases where the ~~Central Bank~~^{Reg. Star} is satisfied that all those directors who are employees have been deemed fit and proper to be directors of a financial institution by the home country regulator of the financial institution.

(4) No person who is not a fit and proper person in accordance with the fit and proper test specified in the Third Schedule shall become or remain a director of a financial institution, and for the purposes of this subsection, the Central Bank shall vet all persons proposed as directors of a financial institution within six months and notify the financial institution accordingly.

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(5) Notwithstanding the provisions of the Companies Act, no appointment of a director of a ~~financial institution~~^{S.A.C.C.O} shall have legal effect for the purposes of this Act or any other law unless that person has complied with the requirements of subsection (4).

(6) Subject to subsection (1) no person who on the date of commencement of this Act is a director of a ~~financial institution~~^{S.A.C.C.O} shall, on the expiry of his or her current term of office be eligible for re-appointment as a director unless or until he or she qualifies for appointment under subsection (4).

(7) No person who on the date of commencement of this Act is a director of a financial institution shall six months after the commencement of this Act remain a director unless or until he or she qualifies for such appointment under subsection (4).

53. (1) No person shall become a director in a financial institution unless—

- (a) he or she is above eighteen years of age;
- (b) he or she is of sound mind and has not been declared to be of unsound mind by any court of law in Uganda or elsewhere;
- (c) he or she is not an undischarged bankrupt;
- (d) he or she is a natural person;
- (e) the ^{S.A.C.C. ↑} financial institution has served a written notice on the ~~Central Bank~~ ^{Registrar} of its nomination of that person to become a director; and
- (f) the Central Bank has given a written approval of his or her compliance with the fit and proper test.

(2) The Central Bank may, on receipt of the notice referred to in subsection (1) of this section, seek further information and documents from the applicant or from other sources.

(3) After due consideration has been given to the written notice, the ~~Central Bank~~ ^{Registrar} may—

- (a) give its approval of the applicant to become a director; or
- (b) withhold its approval on the ground that the person concerned is not a fit and proper person to become a director.

(4) Any person who under subsection (1) or subsection (2) of this section knowingly or recklessly provides information to the Central Bank which is false or misleading in a material particular commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty currency points or imprisonment not exceeding two years or both.

(5) At least fifty percent of the directors of a financial institution licensed under this Act must, during the tenure of their office, be resident in Uganda.

Conflict of
interest

^{SACU}
54. (1) No director or officer of a ~~financial institution~~ shall take part in the discussion of or taking a decision on any matter in which that person or any of his or her related interest has an interest.

(2) In any meeting where subsection (1) of this section applies, every officer or director referred to in subsection (1) shall inform the meeting of his or her interest or that of any of the parties mentioned in subsection (1) and to the extent that the discussion or decision concerns any matter in which he or she has an interest, shall exclude himself or herself from further attendance at that meeting.

Responsi-
bilities of the
board

^{SACU}
55. (1) The board of directors of a ~~financial institution~~ shall be responsible for—

- (a) good corporate governance and business performance of the financial institution;
- (b) ensuring that the board is in full control of the affairs and business operations of the financial institution;
- (c) ensuring that the business of the financial institution is carried on in compliance with all applicable laws and regulations and is conducive to safe and sound banking practices;
- (d) ensuring and reporting to the shareholders at the annual general meeting of the financial institution, that the internal controls and systems, and management information systems of the financial institution—

- (i) are designed to provide reasonable assurance as to the integrity and reliability of the financial statements of the financial institution and to adequately safeguard, verify and maintain accountability of its assets;
- (ii) are based on established and written policies and procedures, and are implemented by trained and skilled officers with an appropriate segregation of duties; and
- (iii) are continuously monitored, reviewed and updated by the board of directors to ensure that no material breakdown occurs in the functioning of such controls, procedures and systems.

(e) for the purposes of this Act, 'corporate governance' shall cover the overall environment in which the financial institution operates comprising a system of checks and balances which promotes a healthy balancing of risk and return.

(2) The directors of a financial institution shall appoint from among their number two executive directors who must—

- (a) be ordinarily resident in Uganda;
- (b) have knowledge of the manner in which the institution's longer term strategy is pursued in practice and an ability to influence its policies; and
- (c) effectively direct the business of the financial institution.

56. (1) A director shall in relation to the financial institution in which he or she serves, stand in a fiduciary relationship and shall in addition and without derogation owe the financial institution and its shareholders the following duties—

Duties of directors.

- (a) a duty to act honestly and in good faith;
- (b) a duty to act in the best interest and for the benefit of the financial institution;
- (c) a duty to act independently, free from undue influence of any other person; and
- (d) a duty to access necessary information to enable him or her to discharge his or her responsibilities.

(2) The board of directors as an organ and each director individually shall immediately report in writing to the Central Bank if they have reason to believe that—

- (a) the financial institution may not be able to properly conduct its business as a going concern;
- (b) the financial institution appears to be or is likely in the near future to be unable to meet all, or any of its obligations;
- (c) the financial institution has suspended or is about to suspend any payment of any kind;
- (d) the financial institution does not, or may not be able to meet its capital requirements as prescribed in this Act.

(3) Any individual director who acts in accordance with this section shall make his or her intention known to the board in writing prior to reporting to the Central Bank.

(4) Where the board of directors or a director fails, omits or neglects to report to the Central Bank any matter required to be reported under subsection (2) of this section, the Central Bank may—

- (a) withdraw its approval of the board of directors as an organ,
or

(b) withdraw its approval of any of the directors.

57. (1) The Central Bank may, for sufficient cause—

Removal and
suspension of
directors

(a) remove a director of a financial institution;

(b) remove or suspend the whole board of directors of a financial institution; or

(c) exclude any member of the board from qualifying to serve on a board of any financial institution in Uganda for a period of not less than ten years.

(2) For the purposes of subsection (1), 'sufficient cause' means—

(a) in relation to a director or directors', ceasing to comply with the fit and proper test specified in the Third schedule;

(b) in relation to the board of directors—

(i) failure, omission or neglect of their responsibilities in section 55;

(ii) failure, omission or neglect to report to the Central Bank as required by subsection (2) of section 56;

(iii) failure or omission or neglect of duties as prescribed by subsection (1) of section 56;

(iv) failure to attend without a lawful excuse, two consecutive meetings of the board or being absent from three board meetings for a consecutive period of six months.

(b) be deemed to be an external auditor appointed by the financial institution under subsection (1) of this section and approved by the Central Bank as required by subsection (3).

(7) The Central Bank may for sufficient cause withdraw its approval of the appointment of an external auditor previously granted, and upon the withdrawal, the external auditor concerned shall vacate office.

(8) For the purposes of subsection (7), "sufficient cause" shall relate to any of the following—

- (a) failure to comply with the requirements of this Act;
- (b) breach of duty as imposed by this Act;
- (c) inability to perform to the prescribed standard or at all;
- (d) any other reason that the Central Bank may, in its discretion consider applicable.

Approval of
external
Auditor
Cap.110.

63. Notwithstanding the provisions of the Companies Act, no person shall hold office as an external auditor of a financial institution unless his or her appointment has been approved by the Central Bank under section 62.

Disqualific-
ation of
External
Auditor

64. A person shall not qualify to be appointed or to act as an external auditor of a financial institution if—

- (a) that person, and in case of a firm, every partner in the firm, is not registered as a member of the Institute of Certified Public Accountants established under the Accountants Act;
- (b) that person, either directly or indirectly has a material interest in the financial institution or its affiliates;

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(3) No director serving on the board of a financial institution shall simultaneously serve as a board member, or in any executive capacity, with any other financial institution or a subsidiary or affiliate of the financial institution in Uganda.

(4) Where the Central Bank—

(a) removes or suspends the whole board of directors; or

(b) removes any directors from the board and as a result of the removal the number of board members falls below the minimum prescribed in this Act,

the Central Bank shall immediately assume the powers of the board of directors and shall within fourteen days summon a meeting of the shareholders for the purpose of electing a new board of directors, which shall be required to satisfy the provisions of this Act relating to the appointment of directors.

Board
meetings

58.(1) The Central Bank may, by notice, order any financial institution to provide the Central Bank within a period specified in the notice, a copy of the board minutes and resolutions duly certified as a true record by the Secretary and Chairperson of the board.

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(2) Notwithstanding anything in this Act and the memorandum and articles of association of a financial institution, or the Companies Act, the Central Bank may, in the interest of the financial institution or the safety of depositors—

(a) order the board of directors of a financial institution to meet within three days and at such place in Uganda as the order shall specify;

(b) order the board of directors of a financial institution to consider on the agenda of the convened meeting such items relating to the financial institution as the Central Bank may deem necessary for purposes of the safety of the financial institution and its depositors;

(c) appoint an observer to any board meeting of a financial institution.

(3) Where a meeting of the board is convened under paragraph (a) of subsection (2) of this section, the quorum for the meeting shall be three directors or one third of the total directors present, whichever is greater, and decisions shall be taken by a simple majority.

(4) Any decision taken under subsection (3) shall be binding on the financial institution.

(5) Where no director turns up, the Central Bank shall take appropriate action as it deems fit.

59. (1) The board of directors shall constitute from among its members, a committee on audit, consisting of not less than two persons to perform such functions as the board of directors shall specify.

Audit
Committee of
the board

(2) Notwithstanding subsection (1), all directors employed by the financial institution in any other position except that of director, shall be disqualified from serving on the committee on audit.

(3) The committee on audit shall be headed by a Chairperson who shall be appointed by the board of directors.

(4) The Chairperson shall have such functions as are prescribed by the board.

(5) The committee on audit shall meet once in every quarter of the financial year of the financial institution.

(6) The following shall be required to attend all meetings of the committee on audit—

(a) the board members of the committee on audit;

- (b) compliance of the financial institution with the requirements of this Act;
- (c) compliance of the financial institution with the requirements of the Companies Act.

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(2) A financial institution shall, within thirty days after the nomination for appointment of an external auditor, apply in writing to the Central Bank for the approval of the appointment.

(3) On receipt of an application under subsection (2), the Central Bank may in writing—

- (a) approve the appointment;
- (b) approve the appointment subject to such conditions as shall be specified in the approval;
- (c) decline to approve the appointment.

(4) Where the Central Bank declines to approve the appointment of an external auditor under subsection (3) or withdraws an approval under subsection (7), the financial institution shall nominate another firm as external auditors and subsection (2) shall apply with the necessary modifications in respect of that nomination.

(5) Where a financial institution fails to nominate or obtain approval of an external auditor within two months after the lapse of the term of its previous external auditor, or fails to fill a vacancy for an external auditor, the Central Bank may appoint a qualified firm of auditors whose remuneration shall be paid by the financial institution.

(6) A person appointed as an external auditor under subsection (5) shall—

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- (a) for the purposes of the Companies Act be deemed to have been appointed as an external auditor at the immediately preceding annual general meeting of the financial institution;

- (b) the officer responsible for internal audit in the financial institution; and
 - (c) the officers in charge of the financial and treasury functions of the financial institution.
- (7) The committee on audit shall have the following duties—
- (a) to review the internal audit report and programs of the financial institution;
 - (b) to review the internal controls, operating procedures and systems and management information systems of the financial institution;
 - (c) to ensure that the audit function of the financial institution is adequately staffed;
 - (d) to ascertain the nature of the external audit, co-ordinate the internal and external audits and consider rectification and implementation of issues raised by the external auditor;
 - (e) to review the financial statements of the financial institution and make recommendations on them;
 - (f) to review such investments and transactions that could affect the well being of the financial institution as the auditor or auditors or any officer of the financial institution may bring to the attention of the committee;
 - (g) to review the practices of a financial institution to ensure that any insider transactions of the institution that have a material effect on the stability or solvency of the institution are identified and dealt with.

60. (1) The board of directors shall constitute an Asset and Liability Management Committee consisting of not less than two persons to perform such functions as the board of directors shall specify in relation to establishing the broad guidelines on the financial institution's tolerance for risk and expectations from investment.

Asset and
liability
management
committee

(2) The guidelines shall include but may not be limited to the following areas—

- (a) limits on loan to deposit ratio;
- (b) limits on loan to capital ratio;
- (c) limits on exposure to single or related customers;
- (d) flexible limits on the percentage reliance on a particular deposit liability category;
- (e) maximum dependence on inter-bank and other volatile funding instruments;
- (f) limits on maximum and minimum maturities for newly acquired categories of assets and liabilities;
- (g) limits on maximum and minimum maturities for existing categories of assets and liabilities;
- (h) limits on the sensitivity of the net interest margin on changes in market interest rates;
- (i) maximum percentage imbalance between rates sensitive assets and liabilities;
- (j) limits on minimum spread acceptable between costs and yields of liabilities and assets;
- (k) limits on minimum liquidity provision to be maintained to sustain operations while longer term adjustments are made;
- (l) primary sources of meeting funds should be quantified.

(3) The Central Bank may from time to time issue notices to financial institutions concerning matters to be considered by the Asset and Liability Management Committee.

Internal
auditor

61. (1) Every financial institution shall appoint an internal auditor suitably qualified and experienced in banking who shall report to the committee on audit of the board of directors.

(2) The duties of the internal auditor shall be—

(a) to evaluate the reliability of the information produced by accounting and computer systems;

(b) to provide an independent appraisal function;

(c) to evaluate the effectiveness, efficiency and economy of operations;

(d) to evaluate compliance with laws, policies and operating instructions;

(e) to provide investigative services to line management; and

(f) to certify returns submitted to the Central Bank by the financial institution.

External
auditors

62. (1) Subject to subsection (5) of this section, every financial institution shall nominate for appointment annually, from a pre-qualified list to be published by the Central Bank a firm of qualified auditors whose duty shall be to perform an audit of the financial statements of the financial institution and to give an opinion in accordance with this Act, the Companies Act, and International Standards on Auditing as adopted in Uganda on the following—

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(a) annual balance sheet, profit and loss account and other financial statements required to be submitted by the financial institution to the Central Bank under this Act;

- (b) compliance of the financial institution with the requirements of this Act;
- (c) compliance of the financial institution with the requirements of the Companies Act.

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(2) A financial institution shall, within thirty days after the nomination for appointment of an external auditor, apply in writing to the Central Bank for the approval of the appointment.

(3) On receipt of an application under subsection (2), the Central Bank may in writing—

- (a) approve the appointment;
- (b) approve the appointment subject to such conditions as shall be specified in the approval;
- (c) decline to approve the appointment.

(4) Where the Central Bank declines to approve the appointment of an external auditor under subsection (3) or withdraws an approval under subsection (7), the financial institution shall nominate another firm as external auditors and subsection (2) shall apply with the necessary modifications in respect of that nomination.

(5) Where a financial institution fails to nominate or obtain approval of an external auditor within two months after the lapse of the term of its previous external auditor, or fails to fill a vacancy for an external auditor, the Central Bank may appoint a qualified firm of auditors whose remuneration shall be paid by the financial institution.

(6) A person appointed as an external auditor under subsection (5) shall—

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- (a) for the purposes of the Companies Act be deemed to have been appointed as an external auditor at the immediately preceding annual general meeting of the financial institution;

(c) in the opinion of the Central Bank, circumstances exist which may impair the independence or impartiality of that person in the performance of his or her duties as an external auditor of the financial institution;

(d) that person is an officer or servant of the financial institution;

(e) that person is a partner, or associate of a director or substantial shareholder of the financial institution;

(f) that person by himself or herself, together with his or her partners or employees, performs the duties of secretary or book-keeper for the financial institution.

65.(1) No financial institution shall, before the expiry of the term of the current external auditor remove or change its auditor except with the prior written approval of the Central Bank.

No change of
External
Auditor

(2) Any person who is an external auditor of a financial institution shall give adequate written notice to the financial institution and the Central Bank of—

(a) his or her decision to resign from office and the reasons for the resignation;

(b) his or her decision not to seek to be re-appointed and the reasons for doing so.

66. Each firm of external auditors approved for appointment by the Central Bank under this Act shall have in force, before the commencement of the audit, a valid professional indemnity insurance cover for negligence in the performance of its duties under this Act.

Insurance
cover by
external
auditor

67. No audit firm or individual auditor shall serve the same financial institution as external auditors for a continuous period exceeding four years.

Time limit
for external
auditor

68. An external auditor appointed under this Act shall have a primary duty to audit, which shall include the following—

- (a) a duty to warn the board of directors of a financial institution of—
 - (i) the financial institution's ability or inability to meet the capital requirements;
 - (ii) the financial institution's ability or inability to meet the reserve and liquidity requirements;
 - (iii) the financial institution's credit, foreign exchange and operations risks;
 - (iv) any other matter which the auditor becomes aware of in the performance of his or her functions as an auditor which may—
 - (aa) prejudice the ability of the financial institution to continue conducting business as a going concern;
 - (ab) be detrimental to the interests of the depositors; or
 - (ac) violate the principles of sound financial management or the maintenance of adequate internal controls and systems by the financial institution.
- (b) a duty to obtain sufficient, relevant and reliable evidence to satisfy themselves of the various matters necessary to form their opinion;
- (c) a duty to carefully plan, supervise and review all their work including work performed by subordinate staff;

(d) a duty to ascertain, evaluate and test internal controls before placing audit reliance on them;

(e) a duty to exercise reasonable care and skill in accordance with the current professional standards and practices, and to perform the audit in accordance with international auditing standards and such other regulations, directives, policies and guidelines as the Central Bank may issue;

(f) a duty to assess, and in writing comment on, the report of the board of directors before the report is tabled at the annual general meeting.

69. (1) An external auditor appointed under this Act shall inform the Central Bank if there are reasonable grounds to believe that—

Duties of
External
Auditor to
Central Bank

(a) the financial institution is insolvent, or there is a significant risk that the financial institution will become insolvent; or

(b) the financial institution has contravened a—

(i) a prudential standard,

(ii) a requirement in this Act, regulation, notice or directive issued under this Act; or

(iii) a condition imposed on its license.

(2) The external auditor shall verify all quarterly returns and other reports of the financial institution which the Central Bank may from time to time require to be verified.

(3) The external auditor shall submit to the Central Bank a management letter in which they shall disclose all shortcomings or any contravention of the law which may not be sufficiently fundamental to lead to qualification of the accounts.

(4) The external auditor shall perform any other functions as the Central Bank may by notice assign the auditor.

External auditors rights to access financial records.

70.(1) The external auditor appointed under this Act shall have a right of access at all times to such books, accounts, computer systems, vouchers, financial records and securities of the financial institution and shall be entitled to receive from the officers and staff of the financial institution all information and explanations as he or she may require in the performance of his or her duties.

(2) Any person who—

(a) obstructs an external auditor in the performance of his or her duties under this Act;

(b) fails, refuses or neglects to provide an external auditor with such books, accounts, computer systems, vouchers, financial records and securities as requested by the external auditor, commits an offence and is liable on conviction to a fine not exceeding one hundred currency points or imprisonment not exceeding one year or both.

Information by External Auditors to Central Bank

71. (1) The Central Bank may, by notice in writing, require a person who is, or who has been an external auditor of—

(a) a financial institution; or

(b) a subsidiary or affiliate of a financial institution;

to provide such information about the financial institution, subsidiary or affiliate, if the Central Bank considers that the information will assist it in performing its functions.

(2) Where a person to whom a request to provide information has been made under subsection (1), fails, refuses or neglects to provide the information, or provides information which is false or misleading, that person commits an offence under this Act and is liable on conviction to a fine not exceeding two hundred and fifty currency points or imprisonment not exceeding two years or both.

72. (1) The external auditor shall, after performing the audit, submit to the financial institution an audit report.

Audit
report

(2) A financial institution shall ensure that a report made under subsection (1) of this section is submitted to the Central Bank within three months after the close of its financial year.

(3) A financial institution which contravenes subsection (2) of this section commits an offence and is liable on conviction to a fine of twenty currency points for each day exceeding the period prescribed in subsection (2) until submission of the report.

(4) A financial institution shall provide the external auditor with a letter of assurance from management stating that they have disclosed all financial and other related transactions both off and on balance sheet including contingent liabilities and a copy of the letter shall be submitted to the Central Bank with the audit report.

73. The auditor shall, in every report on the financial institutions' audited annual financial statements which include a qualification, identify and quantify the matters for qualification where possible.

Qualified
audit report

74. (1) The Central Bank may, if dissatisfied with the standard or quality or both, of the audit, reject the audit report and call for a fresh audit at the expense of the financial institution concerned, the external auditor or both.

Rejection of
audit report

(2) Where the Central Bank rejects an audit report, it may appoint an auditor for the financial institution and shall fix the remuneration to be paid to the auditor by that financial institution.

75. The Central Bank shall, before annual accounts of a financial institution are finalized, dividends paid, and the capital requirements in sections 26 and 27 are met, require to be satisfied by the financial institution in respect of—

Require-
ments on
provisions

- (a) sufficiency of provisions for bad debts;
- (b) existence and enforcement of a proper policy of non-accrual of interest on non-performing loans;
- (c) amortization of preliminary expenses, goodwill and similar expenses.

Special and
further
investigations by
External
Auditors

76. (1) The Central Bank may require an external auditor to—

- (a) submit such additional information in relation to the audit as the Central Bank shall deem necessary;
- (b) to carry out any other special investigation;
- (c) carry out any further investigation;
- (d) to submit a report on any of the matters referred to in paragraphs (a), (b), and (c);

and the financial institution concerned shall remunerate the auditor in respect of the discharge by him or her of all or any of such additional duties.

(2) The Central Bank shall, at least once in every financial year arrange meetings between the Central Bank, a financial institution and its external auditor to discuss matters relevant to the Central Bank's supervisory responsibilities which have arisen in the course of the statutory audit of that financial institution, including relevant aspects of the business of the financial institution, its accounting and internal control systems, and its annual balance sheet, profit and loss accounts, and management letter.

(3) The Central Bank may, if it considers it necessary, arrange from time to time meetings with the external auditors of the financial institution.