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EXTRAORDINARY

The Government of the Republic of Liberia announces that the Central Bank of Liberia (CBL), pursuant to its authority under the Financial Institutions Act (FIA) of 1999 and its mandate under the Central Bank of Liberia (CBL) Act of 1999 and specifically consistent with Section 39 of the Financial Institutions Act (FIA) of 1999, issued, on July 22, 2008, its Regulation No. CBL/SD/002/2008 herein under:

**CONCERNING
CORPORATE GOVERNANCE
FOR FINANCIAL INSTITUTIONS**

**CORPORATE GOVERNANCE REGULATION FOR
BOARD OF DIRECTORS FOR LIBERIAN BANKS**



JULY, 2008

CORPORATE GOVERNANCE REGULATION

1.0 Introduction

The Central Bank of Liberia, pursuant to its authority at Section 39 of the New Financial Institutions Act (FIA) of 1999, and, specifically consistent with certain provisions of Section 15, 21, 31, and 74, hereby issues and sets forth Regulation No. CBL/SD/002/2008 (called Corporate Governance Regulation) to aid the individual Board of Directors of banks operating in Liberia in establishing adequate corporate governance practices to ensure the safety and integrity of the banking system.

2.0 Organizational Structural of the Board of Directors

- a) Appointment to the Board of Directors must follow the law as spelled out under Section 74 of the new FIA of 1999.
- b) The Board must be comprised of members with varied backgrounds, that overall, have the qualifications that are conversant with its oversight functions. Some Board members will likely also be officers, managers, or controlling shareholders of the bank, but substantial active participation by non-executive directors is essential if the Board is to be effective. At least two non-executive Board members must be independent Directors (who do not represent any particular shareholder's interest and hold no special business interest with the Bank) appointed by the bank on merit.
- c) The Board is required to examine its size and, with a view to determining the impact of the number upon effectiveness, decide on what it considers an appropriate size for the Board. It must facilitate effective decision making. It should consider the scope and nature of the operations of the bank. However, the minimum size of a Board shall be five members and the maximum shall not exceed 16 members.
- d) A majority of the Board members must reside in Liberia to have a quorum for an immediate Board meeting, if required.

- e) There must be no combination of the post of Chairman/Chief Executive Officer of any bank. There must be a clear distinction of responsibilities between the Head of the Board (Chairman) from that of the Head of Management (CEO/MD/President) such that no one individual /related party has unfettered powers of decision making.
- f) No two members of the same extended family should occupy the position of Chairman and Chief Executive Officer or Executive Director of a bank at the same time. Extended family means husband, wife and their siblings plus parents and brother and sister of both husband and wife.
- g) The practice of the Chairman of the Board serving simultaneously as chairman of any Board committees is against the concept of independence and sound corporate governance, and therefore not allowed.
- h) The Board, at a minimum, must establish Audit, Credit, Asset and Liability Management Committees, consistent with the provisions of section 15(1) (e) of the new FIA of 1999.

3.0 Board of Directors' Responsibilities

A Board of Directors must be strong, independent, and actively involved in performing its oversight function of the bank. The Board is ultimately responsible for the conduct of the affairs of the bank, with distinct duties, responsibilities, and liabilities. Indeed, under some circumstances, individual directors may be held personally responsible for losses suffered by the bank.

3.1 Generally stated, the Board's responsibilities are to:

- Be aware of the bank's operating environment;
- Be diligent in performing its job;
- Exercise independent judgment; and
- Be loyal to the bank's interests.

3.2 Specifically, Responsibilities of the Board include:

- a) Controlling the direction and determining how the bank will go about its business. It must begin with the development of a long-term strategic plan that contains a statement of the Board's general philosophy and defines the Board's vision of the bank's future. The plan must be assessed periodically to take into account new opportunities or unanticipated external developments.
- b) Employing management and establishing the policies under which it operates and ensuring adherence thereto. The Board should delegate day-to-day operations to management, but remain accountable for making sure that these operations are carried out in compliance with applicable laws and regulations and are consistent with safe and sound banking practices.
- c) Monitoring the operations of the bank and making sure its management can meet the challenges presented as the bank grows, its operations become more complex, and its goals change.
- d) Contributing actively to the work of the Board. To do so, one must attend meetings, stay informed of the bank's condition, and exercise independent judgment in Board decision-making. Moreover, one must gain a basic understanding of banking business and the laws and regulations pertaining to it. Directors must also remember to put the bank's interests before their own in business dealings affecting the bank.
- e) Pursuant to (d) above, require regular training and education of Board members on issues pertaining to their oversight functions. This should be institutionalized and budgeted for annually.
- f) Establishing and enforcing the restrictions on the acceptance of gifts, bequest, or other things of value from customers or other persons having a business relationship with the bank.
- g) Adopting policies to establish an independent internal loan review program for monitoring asset quality and a method for ensuring that an adequate allowance for loan losses is maintained.
- h) Defining what banking practices and what levels and types of risk are acceptable. It accomplishes this by adopting policies and procedures that guide management in its assessment of risks and rewards. It shall review written policies at least annually to ensure that they remain adequate and consistent with the goals of the bank. Also, policies should be revised as

necessary to address changes in resources or the operating environment of the bank. The Board may solicit help from outside experts in evaluating the likely impact of any new proposed policies and procedures.

- i) Ensuring that lines of authority are clear and that Board policies are understood and carried out by management.
- j) Reviewing semi-annually, the performance of the Chief Executive Officer/President/Managing Director.
- k) Ensuring the timely repayment of loans taken by any director or his/her related interests. If the debt remains non-performing for more than ninety days, the director must cease to be on the Board of the Bank, unless there are clear mitigating circumstances. If a bona fide repayment plan is developed to return the non-performing debt to current status within a reasonable time-frame, the director could remain on the Board.
- l) Ensuring that clear succession plans are in place for top executives.
- m) Reviewing any management's recommendations carefully, discussing them with management until the Board is assured that the recommendations are well-grounded and in the bank's best interests. The Board must ensure that approval is granted to management's recommendation only after it has been carefully reviewed and considered by the Board.
- n) Leaving day-to-day operations to management. However, the Board must retain overall control.
- o) Maintaining open communications between the Board and the examiners of the CBL, based on a commitment to review carefully and act upon any written communications from the CBL. Meeting with CBL personnel after an on-site examination to discuss the results of supervisory reviews is encouraged. However, the Board is independently responsible for the condition of its bank and must not rely on the examiners to identify or correct problems.
- p) Being familiar with the CBL Bank Rating Guide on the assessment and evaluation of the bank's performance, financial condition and risk profile.
- q) Looking to auditors and its management to assist it in identifying any problems the bank may be experiencing.

- r) Developing strategies to retain competent management and staff, including appropriate compensation and benefit packages. The Board must ensure that the bank's package is tailored appropriately to the bank's operations and business plan.
- s) Ensuring that the bank has adequate training programs to support needed skill levels and to keep personnel abreast of current developments in the financial services industry.
- t) Ensuring that management has adequate plans that address major operational contingencies, such as loss of a major fixed asset or automated systems, caused by fire, flood, or other disasters. Insurance coverage should be addressed and back-up procedures and facilities identified.
- u) Ensuring the accuracy of all quarterly official reports and financial data sent to the CBL. In this regard, the Board must review carefully the quarterly provisions for loan losses to ensure they are adequate for the loss inherent and/or identified in any problem assets.
- v) Insisting that management information systems be adequate to ensure accurate and timely reporting and effective coordination and control of all funds management activities, both on and balance sheet. The Board must also make sure that support system changes are in place before new activities are undertaken.
- w) Adhering to a policy that must require payment of Board meeting fees only when a Board of Directors meeting occurs.

4.0 Board Level Committees

Pursuant to Section 15 (1) (e) of the New FIA of 1999, each licensed bank must have, at minimum, the below board-level committees. However, a bank may have as many board-level committees as desirable, based on its size and operations.

4.1 Audit Committee

- a) The Committee shall be responsible for the review of the integrity of the bank's financial reporting and overseeing the independence and objectivity of the external auditor.

- b) The Committee shall have access to the external auditors to seek explanations and additional information about the bank without management presence.
- c) Members of the Board Audit Committee shall comprise of majority outside directors. At least two members must have accounting or related financial management expertise or experience.
- d) The Committee shall have the authority to review and approve the annual audit plan and make necessary changes to the plan, the adoption of which must be subject to the full Board's approval giving due weight to the committee's recommendation(s).
- e) The Committee shall review the performance of the head of internal audit annually, the overall internal audit function quarterly, as well as approve the remuneration of staff in the internal audit section or department, subject to final approval of the full Board.
- f) The Committee shall make recommendations to the Board on the appointment, re-appointment and removal of the external auditor, and approves the remuneration and terms of engagement of the external auditors.
- g) The Committee shall review carefully the auditor's findings and bring key issues to the attention of the full Board. The Board shall request management to report periodically on its progress in addressing problems raised by the audits so that the Board can ensure that necessary corrective actions are taken in a timely manner.
- h) The Committee shall monitor the implementation of the Corporate Governance Regulation and report to the CBL on a quarterly basis all suspicious activities or unethical dealings and corporate governance breaches.

4.2 Asset and Liability Management Committee

- a) The Committee must be familiar with all activities of the bank, as reflected in its balance sheet.
- b) The Committee shall define the risk tolerance limit of the bank as it relates to the asset composition of the bank, including its loan assets, investments and trading position.

- c) The Committee shall ensure that the bank is not exposed to undue fluctuations in its balance sheets, including liquidity risk, foreign exchange position and credit risk.
- d) The Committee shall regularly review the balance sheet of the bank to ascertain areas of high risk, and ensure that the risk level is consistent with the risk tolerance limit set by the bank.
- e) The Committee shall ensure that the assets of the bank are properly protected. As such, it should ensure that there is adequate risk management framework in place, covering all key risk activities of the bank.

4.3 Credit Committee

- a) The Committee shall have neither the Chairman of the Board nor the MD/President/CEO as its chairman.
- b) If any insider or related interest dealing(s) is brought to the Committee for consideration, the concerned director(s) should recuse him/herself from the approval process of such loans or transactions.
- c) Either the head or one member of the Board Credit Committee shall be knowledgeable in credit analysis. The head of the Credit Section should be a member of the Board Credit Committee.

5.0 Bank Management Responsibilities To The Board Of Directors

It is critical to the effectiveness of the Board that the Board and bank management work together as a team to further the best interest of the bank. Both must understand, however, that management works for the Board; the Board does not work for management.

5.1 The Board Must Expect Certain Things From Management:

- a) The Chief Executive Officer (CEO)/President/MD and the management team shall run the bank's day-to-day activities with a sound system of internal controls and in compliance with Board's policies, laws and regulations.

- b) Management shall provide the Board with the information that directors need to meet their responsibilities, responding quickly and fully to Board requests.
- c) Management shall use its expertise to generate new and innovative ideas and recommendations for Board consideration.
- d) A key indicator of management success is sound business performance, which should be seen in their efforts to run the bank profitably.
- e) Management must provide the Board with all relevant financial information, as may be deemed necessary and at different time intervals, to evaluate the financial performance of the bank.
- f) Management must ensure accurate and timely reporting and effective coordination and control of all funds management activities, both on and off balance sheet.
- g) Management shall be able to plan and respond to changing business circumstances.
- h) Management must ensure that Board's policies are communicated clearly through all levels of the bank.

5.2 Data Integrity and Disclosure Requirement For The Board and Management

- a) The President/CEO/President/MD and Chief Financial Officer of banks must continue to certify in each statutory return/official report submitted to the CBL that they, as signing officers, have reviewed the reports, and that based on their knowledge:
 - i) The report does not contain any untrue statement of a material fact; and
 - ii) The financial statements and other financial information in the report, fairly represent, in all material respects the financial condition and results of operations of the bank as of, and for the periods presented in the report.

- b) Every bank-financial institution shall keep its business records and books in accordance with internationally acceptable accounting standards as well as the requirement of the legal provisioning on accounting in Liberia, and in a manner in which it is well suitable for effective internal control as may be prescribed by the CBL.
- c) All insider credit applications pertaining to directors and top management and parties related to them, irrespective of size, should be sent for consideration/approval to the full Board and deliberated upon by the Board Credit Committee. Such credit applications must also meet all minimum standards consistent with CBL Prudential Regulations for Related Persons Transactions (CBL/SD/05/2000).
- d) Every director, officer, or employee of a bank-financial institution who is in any manner, whatsoever, whether directly or indirectly, interested in an advance (other than a normal staff loan scheme of the institution) from that institution shall, as soon as possible, declare the nature of his interest to the Board of Directors or other body responsible for the management of that institution and shall cause such declaration to be circulated forthwith to all of the members of its Board for consideration.
- e) Every director, officer, or employee of a bank shall be required, upon request of the CBL, to disclose any interests that they and members of their family have in such a bank-financial institution, whether directly or indirectly.
- f) False rendition to the CBL shall attract stiff sanction of fine as stated in Section 31 (1) of the New FIA of 1999.

6.0 Auditor's Independence

Every bank-financial institution shall first seek the CBL's written approval for the appointment of an independent external auditor or firm. A person or firm to be appointed as licensed or certified accountant shall be registered or licensed as a certified public accountant by the Liberian Institute of Certified Public Accountant or a recognized competent authority in Liberia or abroad.

An independent external auditor of a bank-financial institution shall be appointed for a maximum contract term of three years, subject to unlimited renewal approved in advanced by the CBL, on a case-by-case basis, as required by CBL's Regulation No. CBL/SD/04/2005.

6.1 An External Auditor's Responsibility Is To The following:

- a) The appointing bank;
 - b) The creditors;
 - c) The CBL;
 - d) The depositor; and
 - e) The general public
- I. The duties of every independent external auditor shall, among others, include:
- a) Prepare a written report for the shareholders and Board of Directors of each financial institution on the annual balance sheet and income statement. With the financial information provided during the audit, the external auditor should states his opinion on the true and fair view of the financial conditions of the bank; and
 - b) Review the adequacy of the internal audit, control, practices and procedure and make recommendation (s) for remedy. It should inform the CBL about any irregularities, deficiencies, fraudulent act by directors, employees, or shareholders in the administration or operation of the bank or breach of CBL's regulation.
- II. Every independent external auditor of a bank-financial institution has a duty to:
- a) Maintain an arm-length relationship with the bank they audit;
 - b) Render report to the CBL on bank's risk management practices, internal controls, and level of compliance with regulatory directives;
 - c) Respond to queries and information requested by the CBL;
 - d) Report to the CBL any criminal or fraudulent act by the Bank or its shareholders, directors, officers, and employees;
 - e) Have access to the Board or its Audit Committee to whom they must directly report findings; and
 - f) Honor any and all necessary citations from the CBL.

- III. No external auditor shall provide the following services to their client bank:
- a) Internal audit outsourcing services;
 - b) Actuaries services;
 - c) Appraisal or valuation services; and
 - d) Booking or other services related to the accounting records or financial statements of the client client.
- IV. In whatever way the Board chooses to staff its monitoring responsibilities, whether by external or internal auditors or a combination of the two, it is critical that the Board through its Audit Committee (not management) control the selection, retention, evaluation, and compensation of those performing the audit/reviews.

6.2 Role of Internal Auditor

- I. An effective audit unit/section/department plays a key role in assisting the Board to discharge its governance responsibilities, which include:
- a. Have an objective evaluation of the existing risk and internal control framework;
 - b. Review the compliance framework and specific compliance issues;
 - c. Assess the accomplishment of corporate goals and objectives;
 - d. Review operational and financial performances;
 - e. Show systematic analysis of business processes and associated control;
 - f. Implement ad-hoc review of other areas of concerns, including unacceptable level of risk; and
 - g. Provide feedback on adherence to the bank's value and code of conducts/ethics.

- II. The Internal auditor shall be largely independent, highly competent, very objective, consistent, have good integrity, and member or a relevant professional body.
- III. The Internal auditor shall report directly to the Board Audit Committee on approved audit program. He/she should provide the Board Audit Committee with a comprehensive report on occasional and impromptu audits and must make copies of all internal audit reports to the examiners, when requested for.
- IV. Since the objective of the internal audit function has always been to improve any process within the organization that will result in improved revenue and reduced risk, the internal unit should be adequately staffed.
- V. The head of internal audit can meet privately with the full Board/Audit Committee without the presence of management. This will reinforce independence and direct nature of the reporting relationship.

7.0 Other Sources

Bank counsel, management and other professionals may also help Board identify and understand problems and develop appropriate solutions for their bank. Bank counsel, through periodic reports on legislative and regulatory changes, pending litigation, and emerging compliance issues, for instance, can keep the Board abreast of potential problem areas.

8.0 Board Relationship with the Central Bank of Liberia

The CBL may provide general guidance on emerging issues of concern. The CBL's supervisory activities also generate specific information on individual bank's strengths and weaknesses. During the course of their examination review, the CBL examiners may share this information with management, and also with the Board through a variety of supervisory communications. The Board should ensure that it is up-to-date on this information and that any specific follow-up actions are completed in a timely manner. Directors shall review and discuss any written supervisory communications. If the Board wishes to raise questions or discuss issues of concern, it must request to meet with examiners. In some instances, the Board may choose to meet with the CBL examiners without management present. These supervisory activities are not audits, however, and shall not be relied on as audits. They do not substitute the Board's responsibility to monitor the bank's operations. Boards that rely on CBL's supervisors to identify problems in their operations are not fulfilling their responsibilities.

9.0 Penalty for Non-Compliance

Banks failing to adhere to the standards and/or requirements of this regulation shall be subjected to appropriate supervisory sanctions, including but not limited to (i) dissolution of ineffective Board or Board-level Committee, (ii) removal of members of a Board, (iii) down rating of the subject banks, which may entail restrictions on certain banking activities and other remedial actions and/or (iv) payment of a fine of not less than two hundred thousand Liberian dollars (L\$200,000.00) for each day of non-compliance status.

BY ORDER OF THE PRESIDENT

OLUNBANKE KING-AKERELE
MINISTER OF FOREIGN AFFAIRS

MINISTRY OF FOREIGN AFFAIRS
MONROVIA, LIBERIA
JULY, 2008