

GUIDELINES FOR

INVESTMENT/MERCHANT BANKING

**FINANCIAL STABILITY DEPARTMENT
BANK OF SIERRA LEONE
FREETOWN**

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GUIDELINES FOR INVESTMENT/MERCHANT BANK OPERATING IN SIERRA LEONE

1. AUTHORITY

- i. These guidelines are issued by the Bank of Sierra Leone [BSL in exercise of the powers conferred on it by Section 53 of the **Other Financial Services Act 2001** [hereinafter referred to “the OFS Act”].

2. DEFINITION

- i. An Investment/Merchant bank shall be defined as any company that is licensed to carry out any of the following: -
 - a. Accepting wholesale deposits and providing credit facilities.
 - b. Providing consultancy and advisory services relating to corporate and investment matters; mergers and acquisitions and making investments on behalf of persons;
 - c. Undertaking foreign exchange transactions, interest rate swaps, dealings in derivative instruments or derivative financial instruments or any other similar risk management activities;
 - d. Issuance, discount, trading, brokerage, underwriting and guarantee of debentures;
 - e. Investment and loans to facilitate working capital and financing venture capital
 - f. Underwriting, sale, offering and arrangement of securities;
 - g. Inducement of foreign capital, overseas investment and other arrangement of international finance;
 - h. Issuance of bonds;
 - i. Payment guarantee; and
 - j. Initiate loans and sell to investors.

3. ELIGIBILITY FOR LICENCE

An applicant must be:-

- a) a company whose name has not been struck off the register of companies under the Companies Act;
- b) a society registered under the co-operative Societies Act. 1977 and whose name has not been struck off the Register of co-operative Societies; or
- c) a statutory body.

4. APPLICATION FOR LICENCE

Any person seeking a licence for the operation of an Investment/Merchant banking business in Sierra Leone shall apply in writing to the Governor of the Bank of Sierra Leone in accordance with Section 4 of the Other Financial Services Act. The application shall be accompanied with the following: -

- a. A non-refundable application fee of Le2 [two million Leones only] or any other amount that may be determined by the Bank from time to time.
- b. A copy of detailed feasibility report containing information that will include:-
 - i. the need for objectives and aims of the proposed Investment/Merchant banking.
 - ii. the need for the services of the investment/merchant bank.
 - iii. the branch expansion programme [if any] within the first 5 years;
 - iv. the proposed training programme for staff and management succession plan;
 - v. a five year financial projection for the operation of the Merchant banking indicating expected growth and profitability;
 - vi. details of the assumptions which form the basis of the financial projection;
 - vii. the organizational structure of the Merchant bank indicating the functions and responsibilities of the top management team;
 - viii. a business plan for the first three years of operations
 - ix. the composition of the Board of Directors and the curriculum vitae of each member including other directorships held [if any];
 - x. the conclusions based on the assumptions made in the feasibility report.
- c) A copy of the Memorandum and Articles of Association;
- d) A letter of intent to subscribe to the share of the proposed merchant bank signed by each subscriber;
- e) A copy of the list of proposed shareholders in tabular form showing their business and residential addresses and the names and addresses of their bankers;
- f) Minutes of the meeting of the Board of directors of the applicant authorizing the application for the licence;
- g) Details of litigation, if any, against the promoters/sponsors;
- h) Report of previous or pending insolvency or bankruptcy proceedings, if any, against or in respect of the promoters/sponsors
- i) If the Bank is satisfied with the information provided by the proposed merchant bank, the Bank of Sierra Leone may grant an approval in principle and may call upon the promoters to: -

- i. Deposit the prescribed minimum capital into an account at a bank that shall be specified by the Bank of Sierra Leone and submit evidence of payment.
 - ii. Submit evidence of payment for shares taken up by each proposed shareholder.
- j. Thereafter, the Governor may grant a licence to a proposed merchant banking institution;
- k. The Bank may at any time vary or review any condition of a licence or impose additional conditions;
- l. Where a licence is granted subject to conditions, the Merchant bank shall comply fully with those conditions to the satisfaction of the Bank of Sierra Leone within such period as the bank may deem appropriate in the circumstances. Any Merchant Bank that fails to comply with such conditions shall pay to the Bank of Sierra Leone a penalty of Le3,000,000..

5. **FINANCIAL REQUIREMENTS**

The financial requirements which may be varied as the Bank of Sierra Leone considers necessary are as follows: -

	Le
a) Minimum paid-up share capital -	20 billion
b) Non-refundable application fee -	2 million
c) Non-refundable licensing fee -	10 million
d) Change of name fee -	2 million
e) Opening of branch/agency/booth	2 million

These amounts may be varied by the Bank of Sierra Leone from time to time.

6. **MANAGEMENT REQUIREMENTS**

Each director must possess a recognized university degree or a professional qualification.

- a) The number of directors on the board of a Merchant Bank shall be a minimum of three [3] and a maximum of seven [7].
- b) The following minimum qualifications and experience are mandatory for officers who may occupy the key/top management positions in an Investment/ Merchant bank: -
 - i. Managing Director/Chief Executive - a recognized University Degree or Professional qualification with at least 10 years post qualification experience in relevant field.

- ii. Departmental Head - a recognized University Degree or Professional qualification with at least 5 years post qualification experience in relevant field.
- iii. Support staff - shall be qualified and of proven ability.
- iv. Any person with any other qualifications or experience that may be considered adequate by the Bank of Sierra Leone can hold any of positions in [i], [ii] and [iii] within the institution.
- v. Every Investment/Merchant bank shall be required to obtain the approval of Bank of Sierra Leone for its organizational structure and top management team.

7. **CONDITIONS PRECEDENT TO THE COMMENCEMENT OF OPERATIONS**

- i. The promoters of a Merchant bank shall submit the following documents to the Bank before such company is permitted to commence operations: -
 - a) Certified True Copy of the shareholders' register in which the equity interest of each shareholder is properly reflected [together with the original for sighting].
 - b) A copy or evidence of the share certificate issued to each shareholder.
 - c) A certified true copy of particulars of directors and written confirmation that the Board of Directors approved by the Bank of Sierra Leone has been installed.
 - d) A copy of letters of offer and acceptance of employment by management staff and a written confirmation that the management team approved by the Bank of Sierra Leone had been installed.
- ii. The Investment/Merchant bank shall be informed in writing by the Bank of Sierra Leone that it may commence business after physical inspection of its premises.
- iii. The Investment/Merchant bank shall inform the Bank of Sierra Leone in writing of the date of commencement of business.

8.. **SUBMISSION OF RETURNS**

In compliance with the provisions of Sections 29 of the OFS Act the following returns are to be submitted to the Bank by every Merchant bank: -

- A. Approved Annual Operational Budget.
- B Monthly: -
 - i. statement of assets and liabilities;
 - ii. schedule of placements with banks in Sierra Leone;
 - iii. schedule of commercial papers;
 - iv. schedule of loans and advances from banks and other financial institutions in Sierra Leone;
 - v. schedule of loans and advances to banks and other financial institutions in Sierra Leone;
 - vi. schedule of Bankers Acceptances;
 - vii. schedule of other creditors;
 - viii. schedule of current account balances with banks in Sierra Leone;

- ix. schedule of current account balances due to banks in Sierra Leone;
- x. report on undrawn commitments;
- xi. funds sources and interest costs;
- xii. report on lending above statutory limit;
- xiii. report on dismissed/terminated staff;

➤ **Annually: -**

- Audited Financial Statements
- Long form report

➤ **Deadline for Submission of Returns:**

Every Investment/Merchant bank shall submit the required returns to the Bank within the period specified as follows: -

- Approved annual operational budget - not later than 21 days before or after the beginning of the financial year to which the budget is related.
- Monthly - not later than twenty-one [21] days after the end of each month.
- Quarterly - not later than twenty-one [21] days after the end of each quarter.
- Annually - not later than three [3] months after the end of each accounting year.

9. PUBLICATION OF AUDITED ACCOUNTS

- i. The merchant bank shall publish the accounts in at least one widely circulated newspaper not later than three [3] months after the end of the financial year.
- ii. Every published account shall disclose in detail the penalties paid as a result of contravention of the Other Financial Services Act, 2001 and any policy guidelines in force during the year in question and the auditors' report shall reflect such contravention.
- iii. A copy of the newspaper in which the approved account is published shall be forwarded to the Bank of Sierra Leone.
- iv. Any company that fails to comply with any of the above requirements shall pay a penalty of Le200,000.00 (two hundred thousand Leones) for each day during which the offence continues.

10. PENALTIES FOR LATE OR FALSE/INACCURATE RETURNS OR OTHER INFORMATION

- i. Lateness in the submission of return/furnishing any required information, shall attract a fine of Le200,000 (two hundred thousand Leones) per day. Any return sent back to a Mortgage Finance Institutions for amendments/corrections will be treated as late submission and the Le200,000 per day will be applied.
- ii. Persistent failure/refusal to render the required returns in the prescribed form for a period of six [6] months shall be a ground for the revocation of operating licence of a Merchant bank.
- iii. Where the Bank considers it necessary, it may appoint a firm of qualified accountants to prepare proper books of accounts or render accurate returns as the case may be for a Merchant bank and the cost of preparing the accounts or rendering the returns shall be borne by the Merchant bank.
- iv. If any director or officer of a Merchant bank fails to take all reasonable steps to ensure that proper books of accounts are kept with respect to all transactions by the company at its Head Office and/or at its branches, the Governor may impose on him a fine not exceeding Le1 million(one million leones) If any default in this respect is caused by the willful act of any director or officer of the primary mortgage institution, the Governor may impose on him a fine not exceeding Le5 million (five million leones) or cause the removal of such director or officer of the primary mortgage institution in order to protect the integrity and reliability of the financial system.
- v. Such director or officer of the institution so removed on the ground of lack of transparency and/or unethical practices shall be blacklisted from holding any position either as director or officer in any licensed financial institution operating in Sierra Leone.
- vi. Any other directorship held in any licensed financial institution before the action in [v] shall accordingly cease forthwith.
- vii. In addition, the Bank of Sierra Leone may impose on the Merchant bank such other penalties as are deemed appropriate.
- viii. Where a Mortgage Finance Institutions or its director or officer supplies information which he knows to be false or supplies the information recklessly as to its truth or falsity or fails to supply information as required by the Bank or Bank Examiner as the case may be, such Mortgage Finance Institutions or its officer or director shall be guilty of an offence under this section.
- ix. For false supply of information or failure to supply the required information appropriate sanctions shall be imposed as follows:
 - a) In the case of an institution, a penalty of Le 4 million (four million Leones) shall be imposed.

- b) In the case of a person, a penalty of Le 1 million including other disciplinary action the Bank of Sierra Leone may deem necessary in the circumstance.

11. PRUDENTIAL REQUIREMENTS

Every Merchant/Investment institution shall comply with the following prudential requirements:

- **Cash Reserve Ratio [CRR]:** A minimum cash reserve ratio of 5% of deposit liabilities.
- **Liquidity Ratio:** A minimum ratio of fifteen percent [15%] on specified liquid assets against deposit liabilities. Specified liquid assets shall include treasury bills, fund placements, money at call and short-term investments with not more than 91 days maturity.
- **Capital Adequacy Ratio [CAR]:** A minimum capital adequacy ratio of fifteen percent [15%] against risk assets.
- **Equity Investment Holding Ratio:** No Merchant Bank Institution shall invest more than ten percent [10%] of its shareholders' funds unimpaired by losses in the equity share of any venture or undertakings without the prior approval of the Bank.
- **Minimum Exposure to a Single Borrower [Single Obligor Limit]:** No Merchant/Investment bank shall grant credit to a single borrower whether individual, group or corporate entities which in aggregate value is more than twenty five percent [25%] of its shareholders' funds unimpaired by losses and in the case of unsecured advances, the institution shall not extend such facility in excess of 10%. For avoidance of doubt, the credit as applicable to this section shall include any advance, loan, financial guarantee, credit facility or any other liability; and for the purpose of this section, all advances, loans or credit facilities extended to any person shall be aggregated in the determination of the specified limit and shall include all credits extended to any subsidiaries or associates of a body corporate.
- Every director and manager of a merchant/investment financial institution who during his or her tenure fails to ensure compliance with the prudential requirements for a period of not less than six months without sufficient evidence of efforts being made towards the rectification of the deficiency shall have his appointment determined by the Bank including blacklisting from holding any position in any financial institution under the supervisory purview of the Bank Sierra Leone.
- The Bank shall inform, in writing, the Board of every merchant/ investment bank of the observed prudential deficiency and shall request it to forward its action plan.
- Any contravention or non-compliance with any of the prudential requirements shall be liable to a fine.

12. MAINTENANCE OF STATUTORY RESERVES

Every Investment/Merchant Bank shall maintain a reserve fund and shall out of its net profit after taxation and before any dividend is declared, transfer to the statutory reserves as follows:

- a. where the reserve fund is less than 50% of its paid-up share capital, an amount which shall not be less than 50% of the net profits; or
- b. where the reserve fund is equal to 50% but less than 100% in excess of the paid-up share capital, an amount which shall not be less than 25% of net profit;
- c. Where the reserve fund is equal to 100% of the paid-up share capital, an amount which shall not be less than 10% of net profit.

No transfer to the reserve fund shall be made until all identifiable losses have been made good.

13. APPOINTMENTS OF DIRECTORS AND MANAGEMENT STAFF

Every appointment of a director or management staff by any Investment/Merchant Bank shall be with the prior written approval of the Bank.

For this purpose:

- a. In the case of director[s] the following documents shall be submitted to the Bank:
 - i. a copy of the resolution of an Annual General Meeting [AGM] or an Extra-Ordinary General Meeting [EGM] in the case of a reconstitution of the Board of Directors of a Investment/Merchant Bank
 - ii. a copy of the resolution of the Board of Directors of such Investment/Merchant Bank in case of filling a vacancy/vacancies.
 - iii. a copy of a detailed curriculum vitae of the proposed director which shall contain career history to date and any other directorship appointments;
- b. In the case of a management staff, the Investment/Merchant Bank shall submit the following documents to the Bank:
 - a copy of the Board resolution signed by a director and the Company Secretary in support of the appointment;
 - a copy of the detailed curriculum vitae of the appointee showing educational attainments and career history.

Any Investment/Merchant Bank that contravenes the requirement of this section shall pay a penalty of Le2 million in addition to any other sanctions imposed by the Bank.

14. APPOINTMENTS OF AUDITORS

- i. Every Investment/Merchant Bank shall appoint a person approved by the Bank as “the approved auditor”.
- ii. The approved auditor shall be an auditor who satisfies the following requirements:
 - a) a member of a recognized professional accountancy body in Sierra Leone;
 - b) resident in Sierra Leone;
 - c) carry on a professional practice as an accountant and/or auditor in Sierra Leone.
- iii. No person shall be appointed as the auditor of a Investment/Merchant Bank if:
 - a. he has any interest in that institution otherwise than as a depositor
 - b. he is a director, officer or agent of such institution
 - c. it is a firm in which a director of the Investment/Merchant Bank has any interest as partner or director
 - d. he is indebted to the Investment/Merchant Bank
- iv. Any auditor who, after appointment, is subsequently affected by subsection iii [a-d] shall immediately cease to continue as an auditor of the Investment/Merchant Bank.
- v. If an approved auditor in the course of his duties as an auditor of a Investment/Merchant Bank is satisfied that:
 - a. an offence under any other law, guidelines, circulars, etc. has been committed by the Mortgage Finance Institutions or any of its officers;
 - b. losses have been incurred by the Investment/Merchant Bank which substantially reduce its capital funds;
 - c. any irregularity which jeopardizes the interest of depositors or creditors of the mortgage institution or any other irregularity has occurred;
 - d. he is unable to confirm that the claims of depositors or creditors are covered by the assets of the mortgage institution,

He shall immediately report the matter to the Bank of Sierra Leone.

- vi. The approved auditor shall also forward to the Bank of Sierra Leone a copy of a Management Letter on the activities of the Investment/Merchant Bank not later than three [3] months after the end of the financial year of such Investment/Merchant Bank.
- vii. The approved auditor shall have the right of access at all times to all books, accounts and vouchers of the Investment/Merchant Bank and shall be entitled to require from the directors, managers and officers of the

mortgage institution all information and explanations that he considers necessary for the performance of his audit.

- vii. If any Investment/Merchant Bank fails to appoint or fill a vacancy for an approved auditor, the Bank of Sierra Leone shall appoint a suitable person for that purpose and shall fix the remuneration to be paid by the Investment/Merchant Bank to such auditor.
- ix. The appointment of an approved auditor shall not be determined without a prior written approval of the Bank of Sierra Leone.

15. BRANCH EXPANSIONS/CLOSURES

- a. No Investment/Merchant Bank shall open or close a branch without the prior approval in writing of the Bank.
- b. Every application for the opening of a new branch shall be accompanied with the following documents:
 - i. a copy of Board resolution in support of the proposed branch
 - ii. a detailed feasibility report on the proposed branch showing:
 - * the rationale for the proposed branch
 - * the initial capital outlay for the proposed branch
 - * projected income and expenditures for a 3-year period
 - * the proposed organizational structure of the proposed branch
 - * the staffing requirements
 - * the assumption for the financial projection in the report.
- c. The Investment/Merchant Bank seeking approval for the opening of a new branch must have a track record of good financial performance, regularity in the submission of all required returns, compliance with laws, rules and regulations.
- d. Every application for the closure of a branch shall be accompanied with the following:
 - i. a copy of Board resolution authorizing the closure
 - ii. reasons for the closure with relevant evidence
 - iii. arrangement put in place to settle the customers of the affected branch.

16. CHANGE IN THE OWNERSHIP STRUCTURE

Except with the prior consent of the Bank, no mortgage institution shall enter into an agreement or arrangement.

- a. which results in a change in the control or ownership of the Investment/Merchant Bank
- b. for sale, disposal or transfer of the whole or any part of the business of the
- c. for the amalgamation or merger of the with Investment/Merchant Bank any other person Investment/Merchant Bank

- d. for the reconstruction of the Investment/Merchant Bank ions e.g. to employ a management agent or to transfer its business to any such agent.
- e. to employ a management agent or to transfer its business to any such agent..

17. PROHIBITIONS/RESTRICTIONS

A Investment/Merchant Bank shall not:

- i. grant any loan, advance or credit facility for the building, improvement or extension of a dwelling house unless adequate security has been taken on an existing property or the property in respect of which the loan or advance is being granted;
- ii. grant any loan, advance or credit facility on the security of its own shares;
- iii. engage in any commercial, agricultural, industrial or any other undertaking without the prior approval of the Bank;
- iv. pay dividend on its shares until all its preliminary expenses, organizational expenses, shares selling commission, amount of losses incurred and other capitalized expenses not represented by tangible assets have been completely written off and adequate provisions made on actual and contingent losses on risk assets;
- v. employ or continue the employment of any person who is or has at any time been adjudged bankrupt or has suspended payment to or has compounded with his creditors or who is or has been convicted by a court for an offence involving fraud, dishonesty or professional misconduct;
- vi. appoint as a director without the consent of the Bank any person who is a director of:
 - a. any other Investment/Merchant Bank
 - b. a licensed bank
 - c. other financial institution/specialized banks under the supervisory purview of the Bank
- vii) grant or permit:-
 - a) unsecured advances or unsecured credit facilities to any of its directors of their close relations whether such advances or credit facilities are obtained by its directors or their close relations jointly or severally;
 - b) any advances or credit facilities in excess of two percent of the institution's net worth to any firm or company or group of firms or companies in which any of that institutions' directors or other officials is interested as a partner or guarantor or is one of the principal shareholders, and in the case of any secured loan or credit facility any amount which in the aggregate exceeds two thirds of one percent of the institution's network;
 - a) to be outstanding to its officials, employees or their close relations unsecured advances or unsecured credit facilities which in the aggregate or unsecured credit facilities which in the

aggregate for any one official employee or close relation exceed one year's emoluments of such official or employer.

- viii). No individual shall:-
- a) own more than 10 percent of the shares of any licensed financial institutions without prior approval of the Central Bank; or
 - b) own more than 5 percent of the shares of any licensed financial institutions without prior notification to the Central Bank.
 - c) No proposed Investment/Merchant Bank shall incorporate/register its name with the Administrator and Registrar General until an approval for the use of the name has been obtained from the Bank of Sierra Leone, a copy of which shall be presented to the Administrator and Registrar General.

18. CONDITIONS FOR REVOCATION OF LICENCE

The ground for the revocation of a licence granted to a mortgage institution may include any of the following:

- i. submission of false information/data during and after the processing of the application for licence;
- ii. failure to comply with the minimum capital requirements;
- iii. persistent failure to comply with any guidelines or directives of the Bank of Sierra Leone or provision of the Other Financial Services Act 2001 for a period of six [6] months;
- iv. engaging in activities prejudicial to the Sierra Leone economy;
- v. having insufficient assets to meet its liabilities;
- vi. Persistent failure to meet matured obligations to customers;
- vii. engaging in functions/activities outside the scope of the licence;
- viii. any other act[s] which in the opinion of the Bank of Sierra Leone constitute[s] a violation of any of the provisions of these guidelines, OFS Act, circulars and other regulations by the Bank of Sierra Leone.

19. GENERAL

- i. Any director who is involved in the management of a licensed Investment/Merchant Bank shall cease to hold office if:
 - a. he is declared bankrupt by a competent court;
 - b. he is convicted of any offence involving fraud or dishonesty;
 - c. he is of unsound mind.
- ii. No person who had been a director or directly involved in the management of a failed licensed financial institution shall without the written authority of

the Governor of Bank of Sierra Leone act or continue to act as a director or be indirectly involved in the management of any licenced. Mortgage Finance Institutions

- iii. Every Investment/Merchant Bank is hereby informed of the maintenance by the Bank of a black book for directors, officers and employees of any licensed financial institution who had committed acts relating to fraud, dishonesty and financial malpractices against their institutions. All s are Mortgage Finance Institutions therefore, enjoined to submit the names of such officers for the purpose of updating the black book.
- iv. The penalties for any breach of the provisions of these guidelines which are not expressly specified against the appropriate section of these guidelines or other regulations of the Bank shall be as set out in the relevant provisions of the OFS Act, 2001.

20. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

Every Investment/Merchant Bank shall comply with the requirements of the provisions of the Other Financial Services Act, 2001, all rules and regulations, as well as circulars issued by the Bank from time to time.

**FINANCIAL STABILITY DPEARTMENT
BANK OF SIERRA LEONE
FREETOWN**