

GOVERNMENT NOTICE NO. 29

FINANCIAL SERVICES ACT

(CAP. 44:05)

FINANCIAL SERVICES (CAPITAL ADEQUACY FOR BANKS) (AMENDMENT)
DIRECTIVE, 2024

IN EXERCISE of the powers conferred by section 34(2)(c) of the Financial Services Act, I, DR. WILSON TONINGA BANDA, Registrar of Financial Institutions, issue the following Directive—

1. This Directive may be cited as Financial Services (Capital Adequacy for Banks) (Amendment) Directive, 2024. Citation
2. The Financial Services (Capital Adequacy for Banks) Directive is amended in paragraph 5 by deleting— Amendment
of para. 5 to
Cap. 44:05,
Sub. leg. GN.
19/2018
 - (a) subparagraph (1) and substituting therefor a new subparagraph as follows—

“(1) A bank shall maintain a minimum core capital of (K10,000,000,000).”.
 - (b) in subparagraph (3), the words “subparagraphs (1) and” and substituting therefor the word “subparagraph”; and
 - (c) in subparagraph (4), the words “subparagraphs (1) and” and substituting therefor the word “subparagraph”.

Issued this 1st day of May, 2024.

DR. W. T. BANDA

Registrar of Financial Institutions

(REF. NO. FIN/PFSPD/02/12)

GOVERNMENT NOTICE NO. 30

FINANCIAL SERVICES ACT

(CAP 44:05)

FINANCIAL SERVICES (LICENSING OF BANKS) (AMENDMENT) DIRECTIVE,
2024

IN EXERCISE of the powers conferred by section 21 (5) of the Financial Services Act, I, DR. WILSON TONINGA BANDA, Registrar of Financial Institutions, issue the following Directive—

1. This Directive may be cited as Financial Services (Licensing of Banks) (Amendment) Directive, 2024. Citation
2. The Financial Services (Licensing of Banks) Directive (hereinafter referred to as the “principal Directive”) is amended, in paragraph 7, by deleting subparagraph (1) and substituting therefor a new subparagraph as follows— Amendment
of para. 7 to
Cap. 44:05,
Sub. leg. GN.
22/2018

“(1) The minimum start-up capital for a bank shall be (K10,000,000,000).”.

Amendment
of para. 9 of
the principal
Directive

3. Paragraph 9 of the principal Directive is amended by deleting subparagraph (1) and substituting therefor a new subparagraph as follows—

GN. 51/2018

“(1) The minimum number of members of a board of directors of a bank shall be as prescribed in the Financial Services (Risk and Governance Requirements for Banks and Bank Holding Companies) Directive.”.

Issued this 1st day of May, 2024.

DR. W. T. BANDA

Registrar of Financial Institutions

(REF. NO. FIN/PFSPD/02/12)

GOVERNMENT NOTICE NO. 31

FINANCIAL SERVICES ACT

(CAP 44:05)

FINANCIAL SERVICES (RISK AND GOVERNANCE REQUIREMENTS FOR BANKS AND BANK HOLDING COMPANIES) (AMENDMENT) DIRECTIVE, 2024

IN EXERCISE of the powers conferred by section 34 (2) (b) of the Financial Services Act, I, DR. WILSON TONINGA BANDA, Registrar of Financial Institutions, issue the following Directive—

Citation

1. This Directive may be cited as Financial Services (Risk and Governance Requirements for Banks and Bank Holding Companies) (Amendment) Directive, 2024.

Substitution
of para. 5 to
Cap. 44:05,
Sub. leg. GN.
51/2018

2. The Financial Services (Risk and Governance Requirements for Banks and Bank Holding Companies) Directive (hereinafter referred to as the “principal Directive”) is amended, by deleting paragraph 5 and substituting therefor a new paragraph as follows—

“Restrictions
on shareholders
and persons
affiliated to
shareholders

5.—(1) A significant shareholder of an institution shall not, directly or indirectly, be a chairperson of a Board or member of a Board Audit Committee or Board Risk Committee of the institution.

A person affiliated to a shareholder of an institution (2) shall not be a member of the Board Audit Committee or Board
“Risk Committee of the institution

Amendment
of para. 7 of
the principal
Directive

3. Paragraph 7 of the principal Directive is amended by deleting subparagraph (2) and substituting therefor a new subparagraph as follows—

“(2) The Board shall review the charter at least once every two years.”.

4. The principal Directive is amended by deleting paragraph 9 and substituting therefor a new paragraph as follows—
- Substitution
of para. 9 of
the principal
Directive
- “Company Secretary 9. An institution shall have a Company Secretary who shall, among other duties, be responsible for—
- (a) orientation of new directors on the business and governance practices of the institution;
- (b) facilitation of annual self-assessment of directors; and
- (c) provision of advice and guidance on ethics and governance to the Board.”.
5. Paragraph 13 of the principal Directive is amended by deleting clause (a) and substituting therefor a new clause as follows—
- Amendment
of para. 13 of
the principal
Directive
- “(a) comprise a minimum of eleven directors and the majority of the directors shall be independent directors; and”.
6. Paragraph 16 of the principal Directive is amended by—
- Amendment
of para. 16 of
the principal
Directive
- (a) deleting subparagraph (6) and substituting therefor a new subparagraph as follows—
- “(6) A director of a bank or bank holding company shall not serve on the Board of another financial institution unless—
- (a) the director obtains prior written approval of the Registrar; or
- (b) the other financial institution is part of the group or is affiliated to the bank through shareholding.”.
- (b) inserting, immediately after subparagraph (7), a new subparagraph (8) as follows—
- “(8) A person who ceases to be a director of a bank or bank holding company shall not be appointed as a director of another bank or bank holding company until after expiry of a cooling off period of six months from the date he ceases to be a director of the bank or bank holding company.”.
7. Paragraph 18 of the principal Directive is amended by—
- Amendment
of para. 18 of
the principal
Directive
- (a) renumbering subparagraphs (4), (5), (6), (7), (8) and (9) as subparagraphs (5), (6), (9), (10), (11) and (12), respectively;
- (b) inserting a new subparagraph (4) as follows—
- “(4) A committee of the Board shall have a minimum of three members.”.
- (c) deleting subparagraph (6) and substituting therefor a new subparagraph as follows—
- “(6) A chairperson of a committee of the Board shall be an independent director.”.

(d) by inserting, immediately after subparagraph (6), new subparagraphs (7) and (8) as follows—

“(7) A director shall not be a chairperson of more than one committee of the Board except with prior written approval of the Registrar.

(8) Where a director serves as chairperson of an additional committee of the Board as prescribed under subparagraph (7), the director shall serve as a chairperson of the additional committee for a period not exceeding six months.”.

Issued this 1st day of May, 2024.

(REF. NO. FIN/PFSPD/02/12)

DR. W. T. BANDA
Registrar of Financial Institutions

GOVERNMENT NOTICE NO. 32

FINANCIAL SERVICES ACT

(CAP 44:05)

FINANCIAL SERVICES (FIT AND PROPER REQUIREMENTS FOR SHAREHOLDERS, DIRECTORS AND SENIOR MANAGEMENT OFFICIALS OF BANKS AND BANK HOLDING COMPANIES) (AMENDMENT) DIRECTIVE, 2024

IN EXERCISE of the powers conferred by section 34 (2) (a) of the Financial Services Act, I, DR. WILSON TONINGA BANDA, Registrar of Financial Institutions, issue the following Directive—

Citation 1. This Directive may be cited as the Financial Services (Fit and Proper Requirements for Shareholders, Directors and Senior Management Officials of Banks and Bank Holding Companies) (Amendment) Directive, 2024.

Amendment of para. 2 to Cap. 44:05, Sub. leg. GN. 21/2018 2. The Financial Services (Fit and Proper Requirements for Shareholders, Directors and Senior Management Officials of Banks and Bank Holding Companies) Directive (hereinafter referred to as the “principal Directive”) is amended in paragraph 2 by—

(a) inserting, in the correct alphabetical order, a new definition as follows—

“Government” means the three arms of Government established under the Constitution of Malawi;”;

(b) deleting the definition of “politically exposed person”; and

(c) in the definition of “senior management official”—

(i) deleting clause (b); and

(ii) renumbering clauses (c), (d) and (e) as clauses (b), (c) and (d), respectively.

3. Paragraph 6 of the principal Directive is amended by—

Amendment
of para. 6 of
the principal
Directive

- (a) deleting subparagraph (4);
- (b) renumbering subparagraph (3) as subparagraph (4);
- (c) inserting a new subparagraph (3) as follows—

“(3) The Registrar shall not grant approval to appoint a foreign national as a senior management official of a bank or bank holding company, unless the bank or bank holding company demonstrates that it has failed to identify a suitably qualified person for the position from the local market.”.

(d) in subparagraph (4), inserting the words “or bank holding company” immediately after the word “bank”;

(e) in subparagraph (5), inserting the words “or bank holding company” immediately after the word “bank”; and

(f) in subparagraph (7), inserting the words “or bank holding company” immediately after the word “bank”.

4. Paragraph 8 of the principal Directive is amended—

Amendment
of para. 8 of
the principal
Directive

(a) by deleting subparagraph (1) and substituting therefor a new subparagraph as follows—

“(1) A chairperson of a board of directors of a bank or bank holding company shall be an independent director of the bank or bank holding company:

Provided that a person who is affiliated to a shareholder of a bank or bank holding company may be appointed chairperson of the board of directors of the bank or bank holding company upon prior written approval of the Registrar.”;

(b) by deleting subparagraph (2) and substituting therefor a new subparagraph as follows—

“(2) A director of a bank or bank holding company shall not serve on the Board of another financial institution—

(a) except upon prior written approval of the Registrar; or

(b) unless the other financial institution is part of the group or is affiliated to the bank or bank holding company through shareholding.”;

(c) in subparagraph (5), by inserting the words—

(i) “or statutory body” immediately after the word “Government”, wherever it appears; and

(ii) “or bank holding company” immediately after the word “bank”, wherever it appears;

(d) by deleting subparagraph (6) and substituting therefor a new subparagraph as follows—

“(6) A salaried employee of the Government appointed as a director of a bank or bank holding company, as prescribed under subparagraph (5), shall not serve as a chairperson of the Board of the bank or bank holding company.”;

(e) by deleting subparagraph (7) and substituting therefor a new subparagraph as follows—

“(7) A director of a bank or bank holding company appointed in accordance with subparagraph (5) shall not serve on a Board of another bank or bank holding company.”;

(f) in subparagraph (8), by inserting the words “or bank holding company” immediately after the word “bank”, wherever it appears;

(g) by deleting subparagraph (9) and substituting therefor a new subparagraph as follows—

“(9) A person who ceases to hold the office of Registrar or other senior management position in the Reserve Bank of Malawi shall not be appointed as a director or senior management official of a bank or bank holding company until after expiry of the cooling off period stipulated in his employment contract with the Reserve Bank.”; and

(h) by inserting a new subparagraph (10) as follows—

“(10) For purposes of this paragraph “employee of a statutory body” does not include an academic member of staff of a public university and tertiary education institution.”.

Amendment
of para. 9 of
the principal
Directive

5. Paragraph 9 of the of the principal Directive is amended—

(a) by deleting subparagraph (1) and substituting therefor a new subparagraph as follows—

“(1) A person shall not be appointed as head of the accounting or finance functions of a bank or bank holding company unless the person is an accredited member of the Institute of Chartered Accountants in Malawi and Malawi Accountants Board.”;

(b) in subparagraph (2), by inserting the words “or bank holding company” immediately after the word “bank”; and

(c) in subparagraph (3), by inserting the words “or bank holding company” immediately after the word “bank”, wherever it appears.

Amendment
of para. 10 of
the principal
Directive

6. Paragraph 10 of the principal Directive is amended, in subparagraph (2), by inserting the words “or bank holding company” immediately after the word “bank”.

Amendment
of para. 11 of
the principal
Directive

7. Paragraph 11 of the principal Directive is amended by deleting the word “shall” and substituting therefor the word “may”.

8. Paragraph 13 of the principal Directive is amended in subparagraph (1)—

Amendment
of para. 13
of the
principal
Directive

(a) by deleting clause (b) and substituting therefor a new clause as follows—

“(b) a person who has been convicted of an offence involving dishonesty, fraud, forgery, perjury, money laundering, corruption, or any offence under the Financial Crimes Act or a financial service law.”;

(b) by deleting clause (i) and substituting therefor a new clause as follows—

“(i) a person who holds or has held, in Malawi or another country, the office of head of state, deputy head of state, Cabinet Minister or Member of Parliament;”;

(c) by renumbering clauses (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w) and (x) as clauses (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x) and (aa), respectively;

(d) inserting a new clause (j) as follows—

“(j) a person who holds or has held, in Malawi or another country, the position of ward councilor or member of a governing body of a political party, any organ of a political party or organization whose objectives or activities are political in nature:

Provided that the person may be eligible to be appointed or to serve as shareholder, director or senior management official of a bank or bank holding company upon the expiry of seven years from the time the person ceases to be a ward councilor or member of a political party or organization whose objectives or activities are political in nature;”;

(e) in clause (w), by deleting the word “or” immediately after the words “institution;”;

(f) inserting new clauses (y) and (z) immediately after clause (x) as follows—

“(y) a person who holds or has held, in Malawi or another country, a position of director or senior management official in a local or international organization which is in a position to influence government policy or decision;

(z) a child and spouse of a person disqualified under clause (i);or”;

(g) renumbering subparagraphs (2) and (3) as subparagraphs (3) and (4), respectively; and

(h) inserting a new subparagraph (2) as follows—

“(2) In addition to the requirements prescribed under this Directive, a shareholder, including an ultimate beneficial owner, shall satisfy the fit and proper requirements prescribed in the Financial Services (Licensing of Banks) Directive.”

GN. 22/2018

Issued this 1st day of May, 2024.

DR. W. T. BANDA

Registrar of Financial Institutions

(REF. NO. FIN/PFSPD/02/12)

GOVERNMENT NOTICE NO. 33

FINANCIAL SERVICES ACT

(CAP 44:05)

FINANCIAL SERVICES (LICENCING AND OPERATIONS OF TRANSFER SECRETARIES) DIRECTIVE, 2024

IN EXERCISE of the powers conferred by section 21(5) of the Financial Services Act, I WILSON TONINGA BANDA, Registrar of Financial Institutions, issue the following Directive—

- | | |
|--|---|
| Citation | 1. This Directive may be cited as the Financial Services (Licensing and Operations of Transfer Secretaries) Directive, 2024. |
| Interpretation | 2. In this Directive, unless the context otherwise requires— |
| Cap. 46:06 | “issuer” has the meaning assigned thereto under the Securities Act; |
| Cap. 46:06 | “securities representative” has the meaning assigned thereto under the Securities Act; and |
| Objectives of the Directive | “transfer secretary” means a company which registers the transfer of ownership of securities and carries out corporate actions on behalf of an issuer. |
| Requirements for licence and licensing criteria for transfer secretaries | 3. The objectives of this Directive are to prescribe—
(a) licencing requirements for transfer secretaries; and
(b) operational standards and professional conduct of transfer secretaries. |
| | 4.—(1) A person shall not operate as a transfer secretary unless the person is licensed as a transfer secretary under this Directive.
(2) A person shall not be licensed to operate as a transfer secretary unless the person—
(a) is a company incorporated under the Companies Act;
(b) has a corporate governance structure comprising—
(i) a board of directors consisting of at least seven members; and
(ii) senior management consisting of at least a principal officer and an operations officer; |

(c) has a robust electronic information management system capable of, among other things—

- (i) maintaining issuer information including securities and their holders;
- (ii) tracking changes in holdings following trade executions;
- (iii) processing client financial data;
- (iv) being interoperable with other internal systems and third-party systems in real-time;
- (v) managing the issuance and cancellation of documents of title;
- (vi) performing risk management functions;
- (vii) possessing information security features;
- (viii) providing an audit trail;
- (ix) displaying a client's information on a client portal;
- (x) generating appropriate reports for the Registrar, clients and other relevant institutions; and
- (xi) managing corporate actions;

(d) has in his employment, at least two securities representatives; and

(e) has suitable business premises.

(3) A person shall not qualify for appointment as a principal officer, operations officer or securities representative unless the person possesses a minimum education qualification of a bachelor's degree in business administration, finance, accounting or economics, obtained from an education institution accredited or recognized under the National Council for Higher Education Act.

5.—(1) An application for a transfer secretary licence shall be—

- (a) in Form TS 1 set out in the *First Schedule*; and
- (b) accompanied by a non-refundable application fee prescribed in the *Second Schedule*.

(2) An applicant who wishes to amend his application or any document submitted in support of the application, shall obtain prior written approval of the Registrar, before amending the application or document, as the case may be.

(3) The Registrar shall, within sixty days of receipt of a complete application, communicate the outcome of the application to the applicant.

(4) The Registrar may, upon review of the application—

- (a) approve the application and issue to the applicant a licence in Form TS 2, set out in the *First Schedule*; or
- (b) reject the application and give reasons for the rejection.

(5) A transfer secretary licence issued under sub-paragraph (5)(a) shall—

- (a) be valid for three years from the date of issuance; and

Cap. 30:12

Application
for a licence

(b) automatically expire if the transfer secretary fails to commence business within a period of twelve months from the date of issuance of the licence.

(6) Where the Registrar rejects an application in accordance with subparagraph (5)(b), the applicant may, at any time, re-apply for a licence upon addressing the shortfalls contained in the communication from the Registrar.

Renewal of
transfer
secretary
licence

6.—(1) A holder of a transfer secretary licence may, upon expiry of the licence, apply to the registrar for renewal of the licence.

(2) An application for renewal of a transfer secretary licence shall be—

(a) in Form TS 3, set out in the *First Schedule*;

(b) made at least two months before the expiry of the licence; and

(c) accompanied by a non-refundable renewal fee prescribed in the *Second Schedule*.

(3) The Registrar shall, in determining an application for renewal of a transfer secretary's licence, take into account the compliance record of the applicant with the Act and the Securities Act during the validity period of the licence.

Cap. 46:06

(4) Where, during the validity period of the licence, the transfer secretary contravened the Act or the Securities Act, the Registrar may—

(a) reject the application for renewal of the licence; or

(b) renew the licence subject to such conditions as the Registrar may determine appropriate.

Suspension or
revocation of
a transfer
secretary
licence

7. The Registrar may suspend or revoke a transfer secretary licence if the Registrar determines that—

(a) a director or officer of the transfer secretary has become subject to a statutory disqualification or restriction;

(b) the transfer secretary does not have a minimum of two full-time employees;

(c) the transfer secretary ceases to comply with the requirements under paragraph 4(2)(c);

(d) the transfer secretary or any of his officers has contravened the Act or the Securities Act; or

(e) the transfer secretary is unable to carry out his functions effectively.

Cap. 46:06

8.—(1) A transfer secretary shall—

(a) establish and maintain a business continuity and disaster recovery plan;

(b) keep share registers up to date;

(c) keep contact details for each shareholder and at least two next of kin of the shareholder;

(d) pay all monies received in respect of dividends for shareholders of a particular company, into a bank account opened solely for the payment of the particular dividend;

Obligations
of a transfer
secretary

(e) not deposit funds meant for different dividends or clients in the same bank account;

(f) perform reconciliation of each bank account balance regularly;

(g) offset bank charges in the dividend bank account by the interest accruing to the account and ensure that any shortfall is met by the issuer;

(h) remit dividends to a shareholder not later than two days after funds are credited into the dividend account of the transfer secretary;

(i) treat all unclaimed dividends in accordance with the Public Finance Management Act, 2022;

No. 4 of 2022

(j) implement adequate internal control measures to prevent manipulation of records; and

(k) maintain appropriate security measures to protect documents from theft and other hazards.

9.—(1) A transfer secretary shall maintain and keep, for a minimum period of seven years—

Record keeping

(a) records of issuers and shareholders;

(b) records of securities transactions;

(c) financial records of all transfer secretarial transactions; and

(d) any other records and documents that the Registrar may determine from time to time.

(2) A transfer secretary shall, on demand, submit to the Registrar in legible form, the records and documents referred to in sub-paragraph (1).

10.—(1) A transfer secretary shall submit the following information to the Registrar—

Reporting requirements

(a) within thirty calendar days of the end of each quarter, a summary of the composition, structure and percentage of shareholding of each listed company, in the format prescribed in the Third Schedule;

(b) by 31st March of each year, an activity report of the transfer secretary during the preceding calendar year, including any changes in the membership of its board of directors or management or business;

(c) by the 5th day of each month, the number of new investors in respect of each company for the preceding month, divided into retail investors and institutional investors; and

(d) any other information the Registrar may request.

(2) A transfer secretary shall, within forty-eight hours, report to the Registrar, any—

(a) violation of the Act, Securities Act, or this Directive committed by his employee, customer or agent;

Cap. 46:06

(b) fraud or malpractice under investigation or reported against his employee, customer or agent; and

(c) disruption in the services offered by the transfer secretary, specifying the measures taken to mitigate the impact of the disruption and the duration needed to remedy the disruption.

Administrative penalty

11.—(1) A transfer secretary who fails to comply with any requirement under this Directive shall be liable to an administrative penalty of K30,000,000.

(2) A transfer secretary ordered by the Registrar to pay an administrative penalty shall pay the penalty, through an electronic bank transfer to the Reserve Bank of Malawi, within five working days of receiving the order.

(3) In addition to the monetary penalty, the Registrar may impose directions and other administrative penalties as provided under the Act.

Appeals

12. A person aggrieved by a decision of the Registrar under this Directive, may appeal to the Financial Services Appeals Committee, within twenty-one days of being notified of the Registrar's decision.

Revocation
G.N. 28/2015

13. The Financial Services (Establishment and Operations of Transfer Secretaries) Directive, 2015 is hereby revoked.

FIRST SCHEDULE

(paras. 5(1)(a);
5(5)(a); (6(2)(a))

FINANCIAL SERVICES ACT

(CAP 44:05)

FORMS

FORM TS 1

(para. 5(1)(a))

APPLICATION FOR A TRANSFER SECRETARY LICENCE

INSTRUCTIONS—

- (a) This Application Form has twenty-five Parts and three Appendices. All written communication should be made on a coloured letterhead, with current and valid contact details, including but not limited to telephone numbers; mobile phone numbers; fax numbers; email addresses; and postal and physical addresses.
- (b) Please ensure that you have responded to all parts and the Appendices.
- (c) Where space provided is not enough, provide the extra information on additional sheets.
- (d) The requirements stipulated under this Directive, the Securities Act (Cap. 46:06) and the Financial Services Act (Cap. 44:05) must be observed when filling this application form.
- (e) Any false and misleading information or omission of material fact will constitute grounds for rejection of the application or imposition of administrative penalties as stipulated under the Financial Services Act (Cap. 44:05).

- (f) Inquiries concerning the preparation, filing and status of this application should be made to the: Director, Financial Sector Regulation Department, Reserve Bank of Malawi, 10 Hannover Avenue, PO Box 565, Blantyre. Telephone: 01 820 444/299. Email: fsr@rbm.mw
- (g) The completed application form and all supporting documentation must be submitted to: The Registrar of Financial Institutions, Reserve Bank of Malawi, Convention Drive, P.O. Box 30063, Lilongwe 3, Malawi.
- (h) Remember to enclose the Supporting Documentation Checklist duly signed.
- (i) Incomplete applications will be automatically rejected.
1. Name of applicant:.....
 2. Physical address of head office:.....
 3. Contact details—
 Postal address.....
 Telephone number.....
 Mobile number.....
 Email address.....
 Website details.....
 4. Legal structure:.....
 4.1 Date of registration or incorporation:.....
 4.2 Certificate of incorporation number:.....
 4.3 Taxpayer Identification Number:.....
 5. Particulars of shareholding:

<i>Name</i>	<i>Nationality</i>	<i>Address</i>	<i>Percentage of share ownership</i>	<i>Source of funds</i>

5.1 For shareholders that are corporates, provide the details in the table below:

<i>Name of corporate body</i>	<i>Date and place of incorporation</i>	<i>Certificate of incorporation number</i>	<i>Name of owners and percentage of ownership</i>	<i>Name of directors</i>	<i>Nature of business</i>

NOTE: In addition, submit the Fit and Proper Questionnaire in Appendix 1 for each of the shareholders.

6. Places of business of shareholder (where applicable):

<i>Name of business place</i>	<i>Start date</i>	<i>Years in operation</i>

7. Indicate the former name(s) by which the applicant has been known:

.....

8. List countries where the applicant operates, if applicable.

.....

9. Details of share capital:

Issued capital.....

Paid up capital.....

Shareholders funds.....

10. Provide evidence of capital:

NOTE: Evidence of capital should either be:

(a) In the form of certified bank statements and a confirmation letter from an external auditor; or

(b) Certified audited accounts for the past three (3) years of the holding company for the subsidiary applicant.

11. Describe the proposed information management system and confirm its ability to perform functions stipulated under paragraph 4(2)(c) of the directive.

12. Provide the details below for each of the directors:

<i>Name</i>	<i>Nationality</i>	<i>Date of appointment</i>	<i>Address</i>	<i>Other Directorship</i>	<i>Date of birth</i>	<i>Gender</i>

In addition, submit the following for each of the directors:

(a) Curriculum Vitae; and

(b) Fit and Proper Questionnaire in Appendix 2.

13. Provide the details below for each of the senior management officials:

	<i>Principal officer</i>	<i>Operations officer</i>
Full name		
Nationality and national identity number		
Date of birth		
Qualifications and dates obtained		
Date of appointment		
Details of previous employment		

In addition, please submit the following for each of the senior management officials:

- (a) Curriculum Vitae; and
 (b) Fit and Proper Questionnaire in Appendix 3.

14. Provide the details below for each of the securities representatives:

<i>Name</i>	<i>Address & contact details</i>	<i>Qualifications and dates obtained</i>	<i>Previous employment (positions, employer and number of years)</i>

15. Borrowings:.....

If yes, provide the following details for each of the loan facility:

Name of lending institution:.....

Type of facility:.....

Date of offer:.....

Terms of offer:.....

Security offered:.....

Value of security:.....

Current outstanding balance:.....

16. Provide details of banker (s):

<i>Name of banker</i>	<i>Branch and address</i>	<i>Details of bank account</i>

17. Provide details of the proposed external auditor:.....

Name of external auditor:.....

Physical and postal address:.....

.....

Telephone and email address:.....

18. Does the Applicant hold, or has it ever held any authority from a supervisory body to carry out any business activity in Malawi or elsewhere?.....

If yes, give particulars (country, supervisory body, nature of business and years of operation):

.....

If any such authority has been revoked, give particulars:

.....

19. Has the applicant been convicted of any offence, or are there any proceedings now pending may lead to a conviction for any offence involving, fraud, dishonesty, financial crime, market abuse, insider trading, corruption, money laundering or terrorist financing?

.....

20. Has the Applicant ever been put under receivership in the past made any compromise or arrangement with its creditors in the past or otherwise failed to satisfy creditors in full?:.....

If yes, give particulars:

.....

21. Is an inspector or other authorized officer of any government ministry, department or agency, professional association or other regulatory body investigating or has such an investigation ever previously taken place into the affairs of the Applicant?.....

If yes, give particulars:

.....

22. Is the Applicant currently engaged or does it expect to be involved in any litigation which may have a material effect on the resources of the institution?.....

If yes, provide particulars:

.....

23. Is the Applicant engaged or does it expect to be engaged in any business relationship with any of its related parties?.....

If yes, please provide details:

.....

24. List and briefly describe proposed financial services and products:.....

Financial product/service:.....

Description:.....

Describe the methodologies of delivering products and services:.....

.....

25. Submit the following supporting documentation together with the application form:

(a) evidence of payment of the application fee of K300,000.00 by way of electronic bank transfer to the following account: Account Name: Licensing- Transfer Secretaries Number: 341108;

(b) Curriculum Vitae and certified copies of certificates of each director;

(c) Curriculum Vitae and certified copies of certificates of each senior management official;

- (d) Curriculum Vitae and certified copies of certificates of each securities representative;
- (e) certified copy of Certificate of Incorporation;
- (f) certified copy of Memorandum and Articles of Association;
- (g) letter of recommendation by a stock exchange licensed under the Financial Services Act (Cap. 44:05);
- (h) organisation chart showing names, designation and reporting lines;
- (i) fit and Proper Questionnaire for shareholders, directors, senior management, officials and securities representatives, in Appendices 1 to 4;
- (j) Three-year business plan of the applicant including vision, mission statement, scope and nature of business operations, financial projections as well as assumptions on which the projected financial statements have been prepared;
- (k) audited financial statements of the promoter or principal shareholders for the past three years;
- (l) where applicable, a certified copy of the board resolution of the parent company approving the establishment and functioning of the subsidiary in Malawi;
- (m) written documentation of the applicant's risk management systems, and the applicant's ability to identify, measure, monitor and control the level and types of risks assumed;
- (n) certified copy of the resolution of the applicant's board of directors authorizing this application;
- (o) a letter from the home country supervisory authority, in case of a parent company of the applicant that is already licensed in another country; and
- (p) certified copy of TPIN.

26. Declaration:

We, the undersigned, being Directors of the Applicant, declare that to the best of our knowledge and belief, the information given in this form and the supporting documentation submitted together with this form are true, correct complete and made in good faith with the purpose and intent that affairs of the applicant will at all times be honestly conducted in full compliance with all applicable financial services laws:

Name:..... Designation.....

Signature..... Date.....

APPENDIX I:

FIT AND PROPER QUESTIONNAIRE FOR SHAREHOLDER

(Where space provided is not enough, please provide the extra information on additional sheets)

(a) Full name:.....

(b) In the case of a body corporate, date of incorporation and registration number:

:.....

NOTE: Attach a certified copy of the certificate of incorporation and memorandum and articles of association

(c) Postal address:.....

(d) Contact number:.....

(e) Physical address:.....

(f) Qualifications in case of an individual shareholder:

(i) Minimum academic qualification (include the date obtained and institution)

.....

(ii) Highest academic qualification (include the date obtained and institution)

.....

(iii) Other qualifications (include the date obtained and the institution)

.....

(g) Amount, type and percentage of shareholding, if any, in any financial institution:

<i>Name of company</i>	<i>Type of shareholding</i>	<i>Amount of shareholding</i>	<i>Percentage of shareholding</i>

(h) Describe your source of income and attach the latest audited financial statements for a body corporate or the latest certified bank statements for an individual shareholder.

.....

(i) Describe how you will be able to provide ongoing capital support to the applicant once licensed.

.....

(j) Shareholding in other companies:

<i>Company's name</i>	<i>Date of incorporation</i>	<i>Amount of shareholding</i>	<i>Percentage of shareholding</i>	<i>Past shareholding</i>		<i>Remarks</i>
				<i>A</i>	<i>B</i>	

A. Refers to date of closure or surrender of shares

B. Refers to reasons for closure or surrender

- (k) Employment/Business record (Please include positions you are holding, or may have held as a shareholder at any financial institution anywhere in the world)

<i>Name of shareholder</i>	<i>Name of employer</i>	<i>Positions held and dates</i>	<i>Responsibilities (where applicable)</i>	<i>Reasons for leaving</i>

- (l) Provide a name (or names) of your banker and bank account details for the last five (5) years.

<i>Period</i>	<i>Banker</i>	<i>Bank account details</i>

- (m) Borrowings:

Do you have current loan facility?:.....

If yes, provide the following details for each loan facility:

Loan Facility

- (i) Name of lending institution:.....
- (ii) Type of facility:.....
- (iii) Date of offer:.....
- (iv) Terms of offer:.....
- (v) Security offered:.....
- (vi) Value of security:.....
- (vii) Current outstanding balance:.....
- (n) Have you ever defaulted on a loan facility? Please provide your latest credit reference report from a licensed credit reference bureau.
- (o) Have you or any entity with which you are associated as Director, Shareholder or Manager ever held or applied for a licence or equivalent authorisation to carry on any business activity in any country?
- If yes, provide details:.....
- If any such application was rejected or withdrawn after it had been issued, or any authorisation revoked, give particulars:
-
- (p) Has judgment involving a finding of fraud, dishonesty, violence, misrepresentation breach of contract, breach of fiduciary duty or professional negligence given against you or are there any proceedings now pending that may lead to such a judgment or finding?
- If yes, provide details:.....

- (q) Has any body corporate, partnership, or unincorporated institution with which you were associated as a controlling party shareholder, director, or senior management official, in Malawi or elsewhere, been wound up, made subject to an administration order, otherwise made any compromise or arrangement with its creditors, or ceased trading either while you were associated with it or within one year after you ceased to be associated with it or has anything analogous to any of these events occurred under the laws of any other jurisdiction?

If yes, please provide details:

.....

- (r) Have you contravened any written law designed for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of financial services or the management of companies or against financial loss due to the conduct of discharged or undischarged bankrupts?

If yes, provide details:

.....

- (s) Have you ever failed to satisfy within one year a judgment of debt under a court order in Malawi or elsewhere?

If yes, provide details:

.....

- (t) Have you ever been adjudged bankrupt by a court in Malawi or elsewhere? Has a bankruptcy petition ever been served on you? Have you made any compromise arrangement or otherwise failed to satisfy creditors in full?

If yes, provide details:

.....

- (u) Have you ever been censured, prosecuted, warned as to conduct, disciplined, disqualified or suspended from practising a profession, removed from office, publicly criticized, or made subject to a court order at the instigation of any governmental body appointed under any enactment, by a professional organization, or the substantial equivalent thereof in Malawi or elsewhere?

If yes, provide details:

.....

- (v) Indicate three (3) individuals of good standing who would be able to provide a reference on your personal integrity. The referees must not be related to you and must have known you for at least three (3) years.

	<i>Referee 1</i>	<i>Referee 2</i>	<i>Referee 3</i>
Name			
Address			
Occupation			

	<i>Referee 1</i>	<i>Referee 2</i>	<i>Referee 3</i>
Contact details: phone numbers and email address			
State for how long has each referee known you			

Declaration:

I, the undersigned, being a shareholder of the Applicant, declare that to the best of my knowledge and belief, the information given in this form and the supporting documentation submitted together with this form are true, correct, complete and made in good faith:

Full names:.....

Signature:..... Date:.....

APPENDIX 2:

FIT AND PROPER QUESTIONNAIRE FOR A DIRECTOR

<i>No</i>	<i>QUESTION</i>	<i>RESPONSE</i>
(a)	Full name of nominee	
(b)	Postal address	
(c)	Telephone number	
(d)	Email address	
(e)	Physical address	
(f)	Date of appointment	
(g)	Minimum academic qualification (include date obtained and institution)	
(h)	Highest academic/professional qualification (include date obtained and institution)	
(i)	Other qualifications (include date obtained and institution)	
(j)	Work experiences: (where applicable include full details of employer, positions held and years of service)	
(k)	Information on other directorships	
(l)	Information on business interests	
(m)	Experience in the capital markets	
(n)	Has the nominee	

No	QUESTION	RESPONSE
(i)	<p>been subject to a direction, administrative penalty or any enforcement action by the Registrar of Financial Institutions or any regulatory body?</p> <p>(If yes, please provide details)</p>	
(ii)	<p>been convicted of any offence, or are there any proceedings now pending which may lead to a conviction for any offence involving fraud or dishonesty?</p> <p>(If so, please provide details)</p>	
(iii)	<p>been adjudged by a court of law to have committed fraud or any act of dishonesty, violence, misinterpretation, breach of contract, bankruptcy, breach of fiduciary duty or professional negligence given against it, in any civil proceedings, or are there any proceedings now pending that may lead to such a judgement or finding?</p> <p>(If so, please provide details)</p>	
(iv)	<p>contravened any written law designed for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of financial services or the management of companies or against financial loss due to the conduct of discharged or undischarged bankrupts?</p> <p>(if so, please provide details)</p>	
(v)	<p>ever been or is now subject to an investigation in Malawi or elsewhere, by or at the instigation of any governmental department or agency, professional association, or other regulatory body?</p> <p>(If so, provide details)</p>	
(vi)	<p>any details that Nominee is of the view that the Registrar of Financial Institutions should know</p>	

(o) Borrowings:

Does the applicant have current loan facility?.....

If yes, provide the following details for each of the credit facilities:.....

Name of lending institution:.....

Type of facility :.....
 Date of offer :.....
 Terms of offer:.....
 Security offered:.....
 Value of security:.....
 Current outstanding balance:.....
 Name:.....
 Signature:..... Date:.....

APPENDIX 3

FIT AND PROPER QUESTIONNAIRE FOR SENIOR MANAGEMENT

(Where space provided is not enough, please provide the extra information on additional sheets)

- (a) Full name of nominee:.....
 (b) Proposed position:.....
 (c) Postal address:.....
 (d) Contact numbers:.....
 (e) Physical address:.....
 (f) Qualifications—
 (i) Minimum academic qualification (include date obtained and institution).....

 (ii) Highest academic qualification (include date obtained and institution).....
 :.....
 (iii) Other qualifications (include date obtained and institution).....
 :.....
 (g) Amount, type and percentage of shareholding, if any, in any company:

<i>Name</i>	<i>Type of shareholding</i>	<i>Amount of shareholding</i>	<i>Percentage of shareholding</i>

- (h) Do you hold any directorship in any company? If yes, please provide details.
 :.....

- (i) Employment record (Please include positions you are holding, or may have held with any employer anywhere in the world)

<i>Name of Employer</i>	<i>Positions held and dates</i>	<i>Responsibilities (where applicable)</i>	<i>Reasons for leaving</i>

- (j) Provide a name (or names) of your banker and your bank account details for the last five (5) years.

<i>Year</i>	<i>Banker</i>	<i>Bank account details</i>

- (k) Are you an accredited member of any professional body in Malawi such as the Institute of Chartered Accountants in Malawi (ICAM), Institute of Internal Auditors (IIA), Economics Association of Malawi (ECAMA) or Malawi Law Society (MLS)?.....

If yes, provide details:

.....

- (l) Have you or any entity with which you are associated as Director, Shareholder or senior management official ever held or applied for a licence or equivalent authorisation to carry on any business activity in any country?.....

If yes, provide details:.....

.....

- (m) If any such application was rejected or withdrawn after it had been issued, or any authorisation revoked, give particulars:.....

.....

- (n) Has judgment involving a finding of fraud, dishonesty, violence, misrepresentation breach of contract, breach of fiduciary duty or professional negligence given against you or are there any proceedings now pending that may lead to such a judgment or finding?.....

If yes, provide details:

.....

- (o) Has any body corporate, partnership, or unincorporated institution with which you were associated as a controlling party shareholder, director, or senior management official, in Malawi or elsewhere, been wound up, made subject to an administration order, otherwise made any compromise or arrangement with its creditors, or ceased trading either while you were associated with it or within one (1) year after you ceased to be associated with it or has anything analogous to any of these events occurred under the laws of any other jurisdiction?.....

If yes, please provide details:

.....

- (p) Have you contravened any written law designed for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of financial services or the management of companies or against financial loss due to the conduct of discharged or undischarged bankrupts?.....

If yes, provide details:.....

- (q) Have you ever failed to satisfy within one year a judgment of debt under a court order in Malawi or elsewhere?

If yes, provide det.....

- (r) Have you ever been adjudged bankrupt by a court in Malawi or elsewhere? Has a bankruptcy petition ever been served on you? Have you made any compromise arrangement or otherwise failed to satisfy creditors in full?.....

If yes, provide details:.....

- (s) Have you been censured, prosecuted, warned as to conduct, disciplined, disqualified or suspended from practising a profession, removed from office, publicly criticized, or made subject to a court order at the instigation of any governmental body appointed under any enactment, by a professional organization, or the substantial equivalent thereof in Malawi or elsewhere?

If yes, provide details:.....

- (t) Indicate three (3) individuals of good standing who would be able to provide a reference on your personal and professional integrity. The referees must not be related to you and must have known you for at least three years.

	<i>Referee 1</i>	<i>Referee 2</i>	<i>Referee 3</i>
Name			
Address			
Occupation			
Contact details: phone numbers and email address			
State for how long has each referee known you			

Please attach copies of employment contracts, where applicable.

- (u) Did the Board approve your appointment? If yes, please attach a copy of the Board resolution approving your appointment.

- (v) Please attach a copy of certified minutes of the board of directors demonstrating that they have thoroughly evaluated the proposed nominee according to the "Fit and Proper" requirements of the Registrar of Financial Institutions and deem the applicant to be "fit and proper".
-

Declaration:

I, the undersigned, being proposed as....., declare that to the best of my knowledge and belief, the information given in this form and the supporting documentation submitted together with this form are true, correct complete and made in good faith:

Full names:

Signature:

Date:

APPENDIX 4:

FIT AND PROPER QUESTIONNAIRE FOR SECURITIES REPRESENTATIVES

(Where space provided is not enough, please provide the extra information on additional sheets)

(a) Full name of nominee.....

(b) Proposed position:.....

(c) Postal address:.....

(d) Contact numbers:.....

(e) Physical address:.....

(f) Qualifications:

(i) Minimum academic qualification (include the date obtained and institution)

.....

(ii) Highest academic qualification (include the date obtained and institution)

.....

(iii) Other qualifications (include the date obtained and the institution)

.....

(g) Amount, type and percentage of shareholding, if any, in any company:

Name	Type of shareholding	Amount of shareholding	Percentage of shareholding

(h) Do you hold any directorship in any company? If yes, please provide details.

.....

(i) Employment record (Please include positions you are holding, or may have held with any employer anywhere in the world)

<i>Name of Employer</i>	<i>Positions held and dates</i>	<i>Responsibilities (where applicable)</i>	<i>Reasons for leaving</i>

(j) Provide the name (or names) of your banker and your bank account details for the last five (5) years.

<i>Year</i>	<i>Banker</i>	<i>Bank account details</i>

(k) Are you an accredited member of any professional body in Malawi such as the Institute of Chartered Accountants in Malawi (ICAM), Institute of Internal Auditors (IIA), Economics Association of Malawi (ECAMA) or Malawi Law Society (MLS)?

If yes, provide details:.....

.....

(l) Have you or any entity with which you are associated as Director, Shareholder or senior management official ever held or applied for a licence or equivalent authorisation to carry on any business activity in any country?

If yes, provide details:.....

.....

If any such application was rejected or withdrawn after it had been issued, or any authorisation revoked, give particulars:

.....

.....

(m) Has judgment involving a finding of fraud, dishonesty, violence, misrepresentation breach of contract, breach of fiduciary duty or professional negligence given against you or are there any proceedings now pending that may lead to such a judgment or finding?

If yes, provide details:.....

.....

(n) Has any body corporate, partnership, or unincorporated institution with which you were associated as a controlling party shareholder, director, executive officer or senior management official, in Malawi or elsewhere, been wound up, made subject to an administration order, otherwise made any compromise or arrangement with its

creditors, or ceased trading either while you were associated with it or within one year after you ceased to be associated with it or has anything analogous to any of these events occurred under the laws of any other jurisdiction?

If yes, provide details:.....

.....

- (o) Have you contravened any written law designed for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of financial services or the management of companies or against financial loss due to the conduct of discharged or undischarged bankrupts?

If yes, provide details:.....

.....

- (p) Have you ever failed to satisfy within one year a judgment of debt under a court order in Malawi or elsewhere?

If yes, provide details:.....

.....

- (q) Have you ever been adjudged bankrupt by a court in Malawi or elsewhere? Has a bankruptcy petition ever been served on you? Have you made any compromise arrangement or otherwise failed to satisfy creditors in full?

If yes, provide details:.....

.....

- (r) Have you been censured, prosecuted, warned as to conduct, disciplined, disqualified or suspended from practising a profession, removed from office, publicly criticized, or made subject to a court order at the instigation of any governmental body appointed under any enactment, by a professional organization, or the substantial equivalent thereof in Malawi or elsewhere?

If yes, provide details:.....

.....

- (s) Indicate three individuals of good standing who would be able to provide a reference on your personal and professional integrity. The referees must not be related to you and must have known you for at least three years.

	<i>Referee 1</i>	<i>Referee 2</i>	<i>Referee 3</i>
Name			
Address			
Occupation			
Contact details: phone numbers and email address			
State for how long has each referee known you			

(t) Please attach copies of employment contracts, where applicable.

.....

(u) What is your position on the submitted structure of the applicant?

.....

Declaration:

I, the undersigned, being proposed as....., declare that to the best of my knowledge and belief, the information given in this form and the supporting documentation submitted together with this form are true, correct complete and made in good faith:

Full names

Signature Date.....

FORM TS 2

(para. 5(5)(a))

TRANSFER SECRETARY LICENCE

A LICENCE is hereby issued to.....of..... to operate as transfer secretary. This licence is issued subject to the provisions of the Financial Services Act (Cap. 44:05). The licence shall be valid for a period of three (3) years.

Issued this day of 20.....

.....
REGISTRAR OF FINANCIAL INSTITUTIONS

FORM TS 3

(para. 6(2)(a))

APPLICATION FOR RENEWAL OF TRANSFER SECRETARY LICENCE

INSTRUCTIONS:

- (a) This Application Form has twenty-one Parts and four Appendices. All written communication should be made on a coloured letterhead, with current and valid contact details, including but not limited to telephone numbers; mobile phone numbers; fax numbers; email addresses; and postal and physical addresses.
- (b) Please ensure that you have responded to all parts and the Appendices.
- (c) Where space provided is not enough, provide the extra information on additional sheets.
- (d) The requirements stipulated under this Directive, in the Securities Act (Cap. 46:06) and the Financial Services Act (Cap. 44:05) must be observed when filling this application form.
- (e) Any false and misleading information or omission of material fact will constitute grounds for any of the following: rejection of application or imposition of administrative penalties as stipulated under the Financial Services Act (Cap. 44:05).

- (f) Inquiries concerning the preparation, filing and status of this application should be made to the: The Director, Financial Sector Regulation Department, Reserve Bank of Malawi, 10 Hannover Avenue, PO Box 565, Blantyre. Telephone: 01 820 444/299. Email: fsr@rbm.mw
- (g) Completed Application Form and all Supporting Documentation must be submitted to: The Registrar of Financial Institutions, Reserve Bank of Malawi, Convention Drive, PO Box 30063, Lilongwe 3, Malawi.
- (h) Remember to enclose the supporting documentation Checklist duly signed.
- (i) Incomplete applications will be automatically rejected.

1. Name of applicant:.....
2. Physical address of head office:.....
3. Contact details:
 Postal address.....
 Telephone number.....
 Mobile number.....
 Email address.....
 Website details.....
4. Licence number for the previous year:.....
5. Update if there have been any changes to the particulars of shareholding since the last application:

<i>Name</i>	<i>Nationality</i>	<i>Address</i>	<i>Percentage of share ownership</i>	<i>Source of funds</i>

NOTE: In addition, submit the Fit and Proper Questionnaire in Appendix 1 for each of the new shareholders.

6. Places of business of shareholder (where applicable):

<i>Name of business place</i>	<i>Start date</i>	<i>Years in operation</i>

7. List branches where the Applicant is now operating (include the physical address and contact details)

8. Details of share capital:
 Issued capital.....

Paid up capital.....

Shareholders funds.....

9. Update any changes in the details below for each of the directors:

<i>Name</i>	<i>Nationality</i>	<i>Date of appointment</i>	<i>Address</i>	<i>Other directorship</i>

In addition, submit the following for each of the directors:

- (a) Curriculum Vitae; and
(b) Fit and Proper Questionnaire in Appendix 2.

10. Update any changes in the details below for each of the senior management officials:

	<i>Chief Executive Officer</i>	<i>Chief Dealing Officer</i>	<i>Chief Financial Officer</i>
Full name			
Nationality and national identity number			
Date of birth			
Qualifications and dates obtained			
Date of appointment			
Details of previous employment			

In addition, please submit the following for each of the senior management officials:

- (a) Curriculum Vitae; and
(b) Fit and Proper Questionnaire in Appendix 3.

11. Update any changes in the details below for each of the securities representatives:

<i>Name</i>	<i>Address & contact details</i>	<i>Qualifications and dates obtained</i>	<i>Previous employment (positions, employer and number of years)</i>

12. Borrowings:

Does the Applicant have current loan facility?.....

If yes, provide the following details for each loan facility:

Loan Facility

(i) Name of lending institution:.....

(ii) Type of facility:.....

(iii) Date of offer:.....

(iv) Terms of offer:.....

(v) Security offered:.....

(vi) Value of security:.....

(vii) Current outstanding balance:.....

13. Update changes in the details of banker(s) and bank account details:

Name of banker

Branch and address.....

Details of bank account

14. Update changes in the details of the proposed external auditor:

<i>Name of external auditor</i>	<i>Physical and Postal address</i>	<i>Telephone and email address</i>

15. Has the applicant been convicted of any offence, or are there any proceedings now pending which may lead to a conviction for any offence involving, fraud, dishonesty, financial crime, market abuse, insider trading, corruption, money laundering or terrorist financing?

.....

16. Has the Applicant made any compromise or arrangement with its creditors in the past or otherwise failed to satisfy creditors in full?.....

If yes, give particulars:.....

.....

17. Is an inspector or other authorized officer of any government ministry, department or Agency, professional association or other regulatory body investigating or has such an investigation ever previously taken place into the affairs of the Applicant?.....

If yes, give particulars:.....

.....

18. Is the Applicant currently engaged or does it expect to be involved in any litigation which may have a material effect on the resources of the institution?

If yes, give particulars:.....

19. Is the Applicant engaged or does it expect to be engaged in any business relationship with any of its related parties?.....

If yes, give particulars:.....

20. Submit the following supporting documentation together with the application form:

- (a) evidence of payment of renewal application fee of MK150,000.00 by way of electronic bank transfer to the following account: Account Name: Licensing-Transfer Secretaries Account Number: 341108
- (b) curriculum Vitae and certified copies of certificates of each director where there have been changes;
- (c) curriculum Vitae and certified copies of certificates of each senior management official where there have been changes;
- (d) letter of recommendation to renew the licence by a licensed stock exchange where they are affiliated; and
- (e) fit and Proper Questionnaire for the chief executive officer, senior management, securities representatives, board of directors and shareholders reproduced in Appendices 1 to 4.

21. Declaration:

We, the undersigned, being Directors of the Applicant, declare that to the best of our knowledge and belief, the information given in this form and the supporting documentation submitted together with this form are true, correct complete and made in good faith with the purpose and intent that affairs of the applicant will at all times be honestly conducted in full compliance with all applicable financial services laws:

<i>Name</i>	<i>Designation</i>	<i>Signature</i>	<i>Date</i>
1.			
2.			

APPENDIX 1:

FIT AND PROPER QUESTIONNAIRE FOR SHAREHOLDER

(Where space provided is not enough, please provide the extra information on additional sheets)

(a) Full name:.....

(b) In the case of a body corporate, date of incorporation and registration number:.....

- (c) Postal address:.....
- (d) Contact number:.....
- (e) Physical address:.....
- (f) Qualifications (where applicable)—
- (i) Minimum academic qualification (include the date obtained and institution)
 :.....
- (ii) Highest academic qualification (include the date obtained and institution)
 :.....
- (iii) Other qualifications (include the date obtained and the institution)
 :.....
- (g) Update any changes in the amount, type and percentage of shareholding, if any, in any financial institution:

<i>Name of company</i>	<i>Type of shareholding</i>	<i>Amount of shareholding</i>	<i>Percentage of shareholding</i>

- (h) Describe how you will be able to provide ongoing capital support to the licensee.

- (i) Update any changes in shareholding in other companies:

<i>Company's name</i>	<i>Date of incorporation</i>	<i>Amount of shareholding</i>	<i>Percentage of shareholding</i>	<i>Past shareholding</i>		<i>Remarks</i>
				A	B	

C. Refers to date of closure or surrender of shares

D. Refers to reasons for closure or surrender

- (j) Update any changes in details of your bank and bank account details

<i>Period</i>	<i>Bank</i>	<i>Bank account details</i>

(k) Borrowings:

Do you have current loan facility?.....

If yes, provide the following details for each loan facility:

Loan Facility

(i) Name of lending institution:.....

(ii) Type of facility:.....

(iii) Date of offer:.....

(iv) Terms of offer:.....

(v) Security offered:.....

(vi) Value of security:.....

(vii) Current outstanding balance:.....

(l) Have you ever defaulted on a loan facility? Please provide your latest credit reference report from a licensed credit reference bureau.

(m) Have you or any entity with which you are associated as Director, Shareholder or Manager or ever held or applied for a licence or equivalent authorisation to carry on any business activity in any country?.....

If yes, provide details:.....

If any such application was rejected or withdrawn after it had been issued, or any authorisation revoked, give particulars:

(n) Has judgment involving a finding of fraud, dishonesty, violence, misrepresentation breach of contract, breach of fiduciary duty or professional negligence given against you or are there any proceedings now pending that may lead to such a judgment or finding?

If yes, provide details:.....

(o) Has any body corporate, partnership, or unincorporated institution with which you were associated as a controlling party, shareholder, director, executive officer or senior management official, in Malawi or elsewhere, been wound-up, made subject to an administration order, otherwise made any compromise or arrangement with its creditors, or ceased trading either while you were associated with it or within one (1) year after you ceased to be associated with it or has anything analogous to any of these events occurred under the laws of any other jurisdiction?

If yes, provide details:.....

(p) Have you contravened any written law designed for protecting members of the public

against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of financial services or the management of companies or against financial loss due to the conduct of discharged or undischarged bankrupts?

If yes, provide details:.....
.....

- (r) Have you ever failed to satisfy within one year a judgment of debt under a court order in Malawi or elsewhere?

If yes, provide details:.....
.....

- (s) Have you ever been adjudged bankrupt by a court in Malawi or elsewhere? Has a bankruptcy petition ever been served on you? Have you made any compromise arrangement or otherwise failed to satisfy creditors in full?

If yes, provide details:.....
.....

- (t) Have you ever been censured, prosecuted, warned as to conduct, disciplined, disqualified or suspended from practising a profession, removed from office, publicly criticized, or made subject to a court order at the instigation of any governmental body appointed under any enactment, by a professional organization, or the substantial equivalent thereof in Malawi or elsewhere?

If yes, provide details:.....
.....

Declaration:

I, the undersigned, being a shareholder of the Applicant, declare that to the best of my knowledge and belief, the information given in this form and the supporting documentation submitted together with this form are true, correct, complete and made in good faith:

Full names:

Signature:..... Date:.....

APPENDIX 2:

FIT AND PROPER QUESTIONNAIRE FOR A DIRECTOR

<i>No</i>	<i>Question</i>	<i>Response</i>
(a)	Full name of nominee	
(b)	Postal address	
(c)	Telephone number	
(d)	Email address	
(e)	Physical address	

No	Question	Response
(f)	Date of appointment	
(g)	Minimum academic qualification	
(h)	Highest academic/professional qualification	
(i)	Other qualifications	
(j)	Work experiences:	
	(include full details of employer, positions held and years of service)	
(k)	Information on other directorships	
(l)	Information on business interests	
(m)	<p>Has the nominee</p> <p>(i) been subject to a direction, administrative penalty or any enforcement action by the Registrar of Financial Institutions or any regulatory body? (If yes, please provide details)</p> <p>(ii) been convicted of any offence, or are there any proceedings now pending which may lead to a conviction for any offence involving fraud or dishonesty? (If so, please provide details)</p> <p>(iii) been adjudged by a court of law to have committed fraud or any act of dishonesty, violence, misinterpretation, breach of contract, bankruptcy, breach of fiduciary duty or professional negligence given against it, in any civil proceedings, or are there any proceedings now pending that may lead to such a judgement or finding? (If so, please provide details)</p> <p>(iv) contravened any written law designed for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of financial services or the management of companies or against financial loss due to the conduct of discharged or undischarged bankrupts? (if so, please provide details)</p>	

No	Question	Response
	(v) ever been or is now subject to an investigation in Malawi or elsewhere, by or at the instigation of any governmental department or agency, professional association, or other regulatory body? (If so, provide details) (vi) any details that Nominee is of the view that the Registrar of Financial Institutions should know	

(n) Update changes in the details of banker(s) and bank account details:

Name of banker

Branch and address.....

Details of bank account

(o) Borrowings:

Does the Applicant have current loan facility?.....

If yes, provide the following details for each loan facility:

Loan Facility

(i) Name of lending institution:.....

(ii) Type of facility:.....

(iii) Date of offer:.....

(iv) Terms of offer:.....

(v) Security offered:.....

(vi) Value of security:.....

(vii) Current outstanding balance:.....

Name:.....

Signature:..... Date:.....

APPENDIX 3:

FIT AND PROPER QUESTIONNAIRE FOR SENIOR MANAGEMENT
OFFICIALS

(Where space provided is not enough, please provide the extra information on additional sheets)

(a) Full name of nominee:.....

(b) Position:.....

- (c) Postal address:.....
- (d) Contact numbers:.....
- (e) Physical address:.....
- (f) Update any changes in the qualifications:.....
- (i) Minimum academic qualification (include the date obtained and institution)
:.....
- (ii) Highest academic qualification (include the date obtained and institution)
:.....
- (iii) Other qualifications (include the date obtained and the institution)
:.....
- (g) Update any changes in the amount, type and percentage of shareholding, if any, in any company:

<i>Name of company</i>	<i>Type of shareholding</i>	<i>Amount of shareholding</i>	<i>Percentage of shareholding</i>

- (h) Do you hold any directorship in any company? If yes, please provide details.
.....
- (i) Update any changes in the details of your banker
- | <i>Period</i> | <i>Banker</i> | <i>Bank account details</i> |
|---------------|---------------|-----------------------------|
| | | |
| | | |
- (j) Update membership to any professional body
.....
- (k) Do you or any entity with which you are associated as Director, Shareholder or senior management official hold any licence or equivalent authorisation to carry on any business activity in any country?.....
If yes, provide details.....
- (l) Has judgment involving a finding of fraud, dishonesty, violence, misrepresentation breach of contract, breach of fiduciary duty or professional negligence given against you or are there any proceedings now pending that may lead to such a judgment or finding?
If yes, provide details.....

- (m) Has any body corporate, partnership, or unincorporated institution with which you were associated as a controlling party shareholder, director, executive officer or senior management official, in Malawi or elsewhere, been wound up, made subject to an administration order, otherwise made any compromise or arrangement with its creditors, or ceased trading either while you were associated with it or within one (1) year after you ceased to be associated with it or has anything analogous to any of these events occurred under the laws of any other jurisdiction?

If yes, provide details.....

- (n) Have you contravened any written law designed for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of financial services or the management of companies or against financial loss due to the conduct of discharged or undischarged bankrupts?

If yes, provide details.....

- (o) Have you ever failed to satisfy within one (1) year a judgment of debt under a court order in Malawi or elsewhere?.....

If yes, provide details.....

- (q) Have you ever been adjudged bankrupt by a court in Malawi or elsewhere? Has a bankruptcy petition ever been served on you? Have you made any compromise arrangement or otherwise failed to satisfy creditors in full?

If yes, provide details.....

- (r) Have you been censured, prosecuted, warned as to conduct, disciplined, disqualified or suspended from practising a profession, removed from office, publicly criticized, or made subject to a court order at the instigation of any governmental body appointed under any enactment, by a professional organization, or the substantial equivalent thereof in Malawi or elsewhere?

If yes, provide details.....

Declaration:

I, the undersigned, being a declare that to the best of my knowledge and belief, the information given in this form and the supporting documentation submitted together with this form are true, correct complete and made in good faith:

Full Names:.....

Signature:..... Date:.....

APPENDIX 4:

FIT AND PROPER QUESTIONNAIRE FOR SECURITIES REPRESENTATIVES

(Where space provided is not enough, please provide the extra information on additional sheets)

- (a) Full name of nominee:.....
- (b) Position:.....
- (c) Postal address:.....
- (d) Contact numbers:.....
- (e) Physical address:.....
- (f) Update any changes in the qualifications:.....
- (i) Minimum academic qualification (include the date obtained and institution)
:.....
- (ii) Highest academic qualification (include the date obtained and institution)
:.....
- (iii) Other qualifications (include the date obtained and the institution)
:.....

- (g) Update any changes in the amount, type and percentage of shareholding, if any, in any company:

<i>Name of company</i>	<i>Type of shareholding</i>	<i>Amount of shareholding</i>	<i>Percentage of shareholding</i>

- (h) Do you hold any directorship in any company? If yes, please provide details.
.....

- (i) Update any changes in the details of your banker

<i>Period</i>	<i>Banker</i>	<i>Bank account details</i>

- (f) Update membership to any professional body

If yes, provide details:.....
.....

- (k) Do you hold a licence or equivalent authorisation to carry on any business activity in any country

If yes, provide details:.....

-
- (f) Has judgment involving a finding of fraud, dishonesty, violence, misrepresentation breach of contract, breach of fiduciary duty or professional negligence given against you or are there any proceedings now pending that may lead to such a judgment or finding?

If yes, provide details:.....

.....

- (m) Has any body corporate, partnership, or unincorporated institution with which you were associated as a controlling party shareholder, director, executive officer or senior management official, in Malawi or elsewhere, been wound up, made subject to an administration order, otherwise made any compromise or arrangement with its creditors, or ceased trading either while you were associated with it or within one (1) year after you ceased to be associated with it or has anything analogous to any of these events occurred under the laws of any other jurisdiction?

If yes, provide details:.....

.....

- (n) Have you contravened any written law designed for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of financial services or the management of companies or against financial loss due to the conduct of discharged or undischarged bankrupts?

If yes, provide details:.....

.....

- (o) Have you ever failed to satisfy within one (1) year a judgment of debt under a court order in Malawi or elsewhere?

If yes, provide details:.....

.....

- (p) Have you ever been adjudged bankrupt by a court in Malawi or elsewhere? Has a bankruptcy petition ever been served on you? Have you made any compromise arrangement or otherwise failed to satisfy creditors in full?

If yes, provide details:.....

.....

- (q) Have you been censured, prosecuted, warned as to conduct, disciplined, disqualified or suspended from practising a profession, removed from office, publicly criticized, or made subject to a court order at the instigation of any governmental body appointed under any enactment, by a professional organization, or the substantial equivalent thereof in Malawi or elsewhere?

If yes, provide details:.....

.....

Declaration:

I, the undersigned, being proposed as.....
 declare that to the best of my knowledge and belief, the information given in this form
 and the supporting documentation submitted together with this form are true, correct
 complete and made in good faith:

Full Names:.....

Signature:..... Date:.....

SECOND SCHEDULE (paras.5(1) (b), 6(2)(c))

FEEs

- | | | |
|---|-------|--------------|
| (1) Application for transfer secretary licence | | K1000,000.00 |
| (2) Application for renewal of transfer secretary licence | | K500,000.00 |

Note: the designated account to deposit all payments under this Directive is:

Bank Name: Reserve Bank of Malawi

Account Name: Licensing- Transfer Secretaries

Account Number: 341108

THIRD SCHEDULE (para. 10(1)(a))

FORMAT OF A SHARE REGISTER QUARTERLY CALL REPORT

Share Register :..... Financial Year:.....

Start Date: :..... End Date:.....

Register Summary

Total number of shareholders.....

	<i>Number of shares</i>	<i>Value of shares</i>
Shares in issue		
Shares held by the public		
Minority shareholding		
Majority shareholding		

Shareholding Distribution:.....

Institution:.....

Distribution by Number of Shares

<i>Range</i>	<i>Number of shares</i>	<i>Value of shares</i>	<i>Number of shareholders</i>
1-5,000 shares			
5,001-25,000 shares			
25,001-50,000 shares			
50,001-100,000 shares			
100,001-200,000 shares			
200,001-500,000 shares			
500,001-1,000,000 shares			
Greater than 1,000,000 shares			
Total			

Distribution by Nationality of Investor

<i>Category</i>	<i>Number of shares</i>	<i>Shares %</i>	<i>Number of holders</i>	<i>Number of Holders %</i>
Foreign Institution				
Foreign Individual (resident)				
Foreign individual (non-resident)				
Local Institution				
Local individual (resident)				
Local Individual (non-resident)				
Total				

Distribution by Financial Corporations

<i>Category</i>	<i>Number of shares</i>	<i>Value of shares</i>	<i>Number of shareholders</i>
Banks			
Development finance institutions			
Collective investment schemes			
Portfolio managers			
General Insurance companies			
Life Insurance companies			
Medical Insurance companies			

<i>Category</i>	<i>Number of shares</i>	<i>Value of shares</i>	<i>Number of shareholders</i>
Stock brokers/dealers			
Pension/Provident funds			
Microfinance institutions			
Financial cooperatives			
Credit reference bureaux			
Other financial institutions			
TOTAL			

Dividends, Coupons and other Payments

Payments

<i>Type of payment</i>	<i>Value</i>
Cash dividend	
Stock dividend	
Coupon	
Other	

Unclaimed Dividends

<i>Period range</i>	<i>Number of shareholders</i>	<i>Value of dividends</i>
Under 1 year		
Over 1 year but less than 2 years		
Over 2 years but less than 4 years		
Over 4 years but less than 6 years		
Over 6 years		
TOTAL		

Issuance of New Shares

<i>Type of issue</i>	<i>Number of shares</i>	<i>Value of shares</i>	<i>Number of shareholders</i>

Issued this 1st day of May, 2024.

GOVERNMENT NOTICE NO. 34

SECURITIES ACT

(CAP. 46:06)

SECURITIES (LENDING, BORROWING AND SHORT SELLING) DIRECTIVE,
2024

IN EXERCISE of the powers conferred by section 67 (1) of the Securities Act, I, DR. WILSON TONINGA BANDA, Registrar of Financial Institutions, issue the following Directive—

1. This Directive may be cited as the Securities (Lending, Borrowing and Short Selling) Directive, 2024. Citation

2. In this Directive, unless the context otherwise requires— Interpretation

“lending agent” means a person who provides support services to securities lenders, including the monitoring of loans, the negotiation of lending fees or rebate, and the management of collateral;

“lending agreement” means a written security lending agreement executed by a security lender and a security borrower;

“lending fee” means a fee charged by a security lender to a security borrower for a security loan contracted under this Directive;

“margin” means a minimum amount of collateral required in a security lending transaction as specified in the lending agreement;

“rebate” means the net interest earned by a collateral held by a security lender that is remitted to a borrower where the collateral is in the form of cash;

“security lending” means the temporary transfer of a security from a lender to a borrower with the concurrent written agreement to return the security either on demand or at a future date; and

“short sale” means sale of a security which a seller does not own at the time of the sale.

3.—(1) A security lending and borrowing transaction shall be carried out in accordance with this Directive. Application of Directive

(2) The Registrar shall, by notice published on his website, prescribe securities to which this Directive shall apply.

(3) The list of securities prescribed under subparagraph (2) shall be determined based on, among other factors—

(a) ease of convertibility into cash, with little or no loss in value;

(b) low default risk;

(c) easiness of ascertaining value;

(d) low correlation with risky assets;

(e) registered securities under the Securities Act; and

(f) low default correlation between counterparty transaction and collateral.

(4) Market participants may, upon prior written approval of the Registrar, extend application of this Directive to securities that are not on the list prescribed under subparagraph (2).

4.—(1) A person may apply, in writing, to the Registrar to exempt a transaction of a security prescribed under paragraph 3(2) from application of this Directive.

(2) An application under subparagraph (1) shall state the reasons for which the exemption is sought.

(3) An application under subparagraph (1) shall be determined within fourteen days from the date the application is received by the Registrar.

5.—(1) A security lending and borrowing transaction shall be carried out by a—

(a) financial institution; or

(b) person authorised for the purpose by the Registrar, whose name is published on the website of the Registrar.

(2) A financial institution and a person authorised to carry out a security lending and borrowing transaction under subparagraph (1) shall comply with—

(a) this Directive; and

(b) any additional requirement imposed by the Registrar.

(3) A financial institution may act as an intermediary for a security borrower or lender.

(4) Where a financial institution acts as an intermediary, the financial institution shall disclose to the borrower and lender any potential or actual conflict of interest in relation to its role in the security lending or borrowing transaction.

6.—(1) A lender and a borrower in a security lending and borrowing transaction shall enter into a written agreement before undertaking the lending and borrowing transaction.

(2) A lending and borrowing agreement shall, at a minimum, include the information prescribed in the *Schedule*.

7.—(1) A market intermediary shall, by the 10th day of the following month, submit a report on securities lending and borrowing transactions carried out in the previous month to the Registrar and the security exchange on which the securities are listed.

(2) The Registrar may, by notice published on his website, require each financial institution to report, at such intervals as the Registrar may prescribe, the net securities lending and borrowing position of each security held by the financial institution.

Exemption
from
application of
Directive

Persons
authorised to
transact in
securities
lending and
borrowing
transactions

Lending and
borrowing
agreement

Lending and
borrowing
agreement

8.—(1) A borrower in a security lending and borrowing transaction shall provide the lender with collateral of at least one hundred percent of the value of the borrowed security. Collateral requirements

(2) The lender in the security lending and borrowing transaction may require the borrower to provide an additional margin on the collateral provided under subparagraph (1).

(3) The collateral provided under subparagraph (1) may be in the form of—

(a) cash, in Kwacha;

(b) Government security;

(c) bank guarantee; or

(d) any other security as may be specified by the Registrar by notice published on his website.

(4) A security that is lent out and its collateral shall be revalued every working day and the value of the collateral shall be adjusted accordingly.

(5) A borrower of a security shall, from time to time, pay to the lender of the security such amount as may be required to ensure that the collateral provided remains sufficient.

9.—(1) A lender who receives collateral in accordance with paragraph 8— Use of collateral

(a) in the case of cash, shall deposit the collateral in an interest-bearing account;

(b) in the case of a Government security, may use the collateral in a repo transaction within the agreed borrowing period; or

(c) in any other case, may use the collateral in such a manner as the Registrar may prescribe by notice published on his website.

(2) The lender may appoint a lending agent, in writing, to manage the collateral and the appointment instrument shall specify the use to which the collateral may be put.

10.—(1) A lender of a security shall continue to enjoy the economic benefit associated with the security during the validity of the lending agreement, including receipt of dividends. Benefits to accrue to lender

(2) The lender shall be entitled to receive a lending fee from the borrower.

11. A borrower in a security lending and borrowing transaction shall— Borrower to have legal title and receive benefits

(a) have full legal title of the security he has borrowed; and

(b) where the collateral provided under the lending agreement is in the form of another security, continue to receive the economic benefit associated with the other security, including receipt of dividends.

Regulation of
short sale of
securities

12.—(1) A short sale of a security shall be carried out in accordance with this Directive.

(2) The Registrar shall, by notice published on his website, prescribe securities that may be subject to a short sale.

(3) The list of securities prescribed under subparagraph (2) shall be determined based on the criteria set out in paragraph 3(3), with the necessary modifications.

(4) Short-selling transactions shall only be carried out by a financial institution in accordance with this Directive and any other additional requirements imposed by the Registrar in writing.

Short sale of
securities

13.—(1) A short sale of a security shall be carried out in the same trading environment as other types of purchase and sale of securities.

(2) A seller who intends to engage in a short-selling transaction shall declare to the security exchange or, if acting through a market intermediary, to the intermediary that the transaction is a short sale.

(3) A buyer in a short sale of a security shall open a margin account with the intermediary institution.

(4) An intermediary institution shall enter into a short sale agreement, in writing, with each customer.

(5) A buyer shall deposit in advance at least one hundred percent of the current market value of the security under short sale, in cash or a security.

(6) A buyer shall only enter into a covered short sale agreement.

(7) A seller may enter into a short sale transaction if the seller provides documentary evidence to show that he has—

(a) entered into an agreement to borrow a security to cover the short sale;

(b) reasonable grounds to believe that the security will be delivered to him in time to cover the short sale; and

(c) entered into an arrangement with another person under which the other person has confirmed in writing that the person will have the security and deliver it in time to cover the short sale.

(8) For purposes of this paragraph “covered short sale” refers to a situation where the seller has made an arrangement to borrow a security before the sale.

Short sale
trading rules

14.—(1) A securities exchange or a trading platform shall, for the purposes of facilitating short-selling transactions, formulate short sale trading rules in line with this Directive.

(2) The trading rules formulated under subparagraph (1), shall provide for identification of each short sale as a short sale by the selling broker.

15.—(1) A participant on a securities exchange or trading platform who holds a short position in a security of at least five per cent of the total amount of the security shall, within five days of attaining the position, report the position to the Registrar and the relevant exchange or trading platform. Short position in securities

(2) A participant and a related person shall not hold a short position in any security that exceeds ten per cent of the total value of the security in issue.

(3) For purposes of this paragraph “short position” means the net investment position in a security in which the security has been borrowed and sold but not yet replaced.

16.—(1) The Registrar may suspend the short sale of a security or impose a control on the price that may input on the short sale of the security to maintain or restore the fair, efficient and transparent trading of the security where— Suspension of short sale of securities and imposition of price controls

(a) the price movement of the security meets the conditions set out in the relevant rules of a securities exchange or other infrastructure provider for the imposition of price controls or suspension of trading;

(b) the short sale of the security is temporarily prohibited under the rules of a securities exchange; or

(c) the short sale of the security has been prohibited in another jurisdiction or has been made subject to a price control as a result of a concern about market order.

(2) The Registrar shall review suspension of the short sale or imposition of a price control under subparagraph (1) at least once every week.

(3) Where the Registrar reviews the suspension of a short sale or imposition of a price control on a short sale under subparagraph (2), the Registrar may—

(a) maintain the suspension or price control;

(b) lift the suspension; or

(c) remove the price control.

17.—(1) A person who contravenes a provision of this Directive commits an offence and shall be liable to a monetary penalty of— Offences and penalties

(a) in the case of an institution, up to K50,000,000; or

(b) in the case of a natural person who is a member of a board of directors or senior management of a broker or dealer, up to K10,000,000.

(2) In addition, to the monetary penalty imposed under subparagraph (1), the Registrar may impose any administrative penalty prescribed under the Act or the Financial Services Act.

SCHEDULE

(para. 6(2))

MINIMUM CONTENT OF A SECURITY LENDING AND BORROWING AGREEMENT

- (a) Particulars of the lender.
- (b) Particulars of the borrower.
- (c) Particulars of the security to be lent.
- (d) Number of securities to be lent.
- (e) Acceptable equivalent security for paying back the loan.
- (f) Agreed value of the security to be lent for the purposes of the transaction.
- (g) Terms and conditions of the transaction.
- (h) Method for calculating lending fee and rebate.
- (i) Payment schedule for lending fee and rebate.
- (j) Nature and value of collateral for the lending.
- (k) Transfer of title and interest in the security to be lent.
- (l) Transfer of title and interest in the collateral provided.
- (m) Methodology for revaluation of collateral provided.
- (n) Particulars of the person responsible for revaluation of collateral.
- (o) Margin attached to the lending and borrowing transaction.
- (p) Nature and consequence of default or other failure in relation to the terms of the lending agreement.
- (q) Exercise of voting rights associated with the security to be lent.
- (r) Exercise of voting rights associated with collateral, where the collateral is a type of security that has voting rights associated with it.
- (s) Procedure for recalling or returning the lent security.

Issued this 1st day of May, 2024.

(REF. NO. FIN/PFSPD/02/12)

DR. W. T. BANDA
Registrar of Financial Institutions

GOVERNMENT NOTICE NO. 35

SECURITIES ACT

(CAP. 46:06)

SECURITIES (CLEARING AND SETTLEMENT) DIRECTIVE, 2024

IN EXERCISE of the powers conferred by section 67 (1) of the Securities Act, I, DR. WILSON TONINGA BANDA, Registrar of Financial Institutions, issue the following Directive—

PART I—PRELIMINARY

1. This Directive may be cited as the Securities (Clearing and Settlement) Directive, 2024. Citation
2. In this Directive, unless the context otherwise requires— Interpretation
- “beneficial owner” means a natural person entitled to receive some or all of the benefits of ownership of a security or other financial instrument;
- “buying broker” means a securities broker acting for a buyer;
- “central securities depository” means a company licensed by the Registrar to—
- (a) establish and operate a system for the central handling of securities—
- (i) where securities are deposited and held in custody by, or registered in the name of, the company or its nominee company for depositors and dealings in respect of these securities are effected by means of entries in securities accounts without the physical delivery of certificates; and
- (ii) which permits or facilitates the settlement or registration of securities transactions or dealings in securities without the physical delivery of certificates; and
- (b) provide other facilities and services incidental to those provided under clause (a);
- “dematerialization” refers to conversion of physical share certificates to a paperless computerized form;
- “depository” means a central securities depository licensed by the Registrar;
- “exchange” means a stock exchange and a commodities exchange licensed under the Financial Services Act; Cap.44:05
- “individual investor” means any other investor other than institutional investor;
- “institutional investor” means large organizations which make substantive investments on the stock exchange, and include investment managers, pension funds, mutual funds, insurance companies, investment banks, commercial trusts, endowment funds, hedge funds and finance companies;
- “operational procedures” means the procedures adopted by the central securities depository from time to time;
- “selling broker” means a securities broker acting for a seller;
- “settlement” means an act that discharges obligations in respect of funds or securities transfers between two or more parties;

“settlement bank” means either a central bank or private bank used to effect money settlements;

“settlement date” means the date on which the parties to a securities transaction agree that settlement is to take place;

“settlement obligation” means an amount due from a financial institution to other financial institutions as a result of the clearing process;

“settlement institution” means an institution across whose books transfers between participants take place in order to achieve settlement within a settlement system; and

“settlement system” means a system used to facilitate the settlement of transfers of funds or financial instruments.

- Application
Cap.44:05
- 3.—(1) This Directive shall apply to a depository, securities broker, securities dealer, securities market intermediary, securities representative and exchange licensed under the Financial Services Act.
- Objective
4. The objective of this Directive is to prescribe standards for clearing and settlement of securities transactions.
- Obligation of an exchange
5. An exchange shall ensure that its members comply with this Directive.
- Security to be held in custody
- 6.—(1) A security deposited into a depository shall be held in custody by the depository, in trust for the beneficial owner.
- (2) A transfer of security into a depository by a depositor shall not convey any transferor’s beneficial interests over the security deposited.
- (3) The beneficial owner of a security shall be entitled to all rights and benefits and be subjected to all liabilities in respect of the security held by the depository.
- Account with depository
- 7.—(1) A person shall open an account with a depository where that person intends to transact in a listed security.
- (2) The process of opening an account referred to in subparagraph (1) shall comply with the rules and procedures prescribed by the depository.
- Physical trading of securities
- 8.—(1) The trading of securities in physical form is hereby prohibited.
- (2) Where dematerialization of securities is required, the process shall conform with the rules of the depository.
- Advance payment
- 9.—(1) An individual buyer shall, in the case of a buy order, make an advance payment of one hundred percent of an approximate value of trade to a buying broker at the time of placing the buy order.
- (2) An institutional investor, shall, in the case of a buy order, make an undertaking to make payment to a buying broker on production of a contract note.

(3) An institutional investor shall make the payment referred to under subparagraph (2), by electronic bank transfer, immediately on receipt of a contract note from the buying broker.

10.—(1) A broker or dealer shall appoint a settlement bank through which the broker shall settle transactions. Settlement bank

(2) A broker or dealer that participates in a settlement shall enter into an agreement with the settlement bank, for the purpose of settling transactions executed at the exchange.

11. Any trade in eligible securities shall be cleared and settled through a depository. Settlement and clearing

12.—(1) A depository shall submit—

Submission of reports

(a) to the Registrar—

(i) a register of securities and movement of securities report on a weekly basis and upon request; and

(ii) a settlement transactions report on a monthly basis; and

(b) to the exchange where the trading took place, a trade settlement report on a monthly basis.

13.—(1) A settlement of a listed security shall be affected by T + 3 as indicated at the date and time of trading. Settlement and delivery

(2) Upon settlement of a transaction, the seller's depository account shall be debited with the eligible securities being the object of the transaction and the selling broker's settlement account shall be credited with the corresponding payment thereof.

(3) Simultaneously, the buyer's depository account shall be credited with the securities being the object of the transaction and the buying broker's settlement account shall be debited with the corresponding payment thereof.

14.—(1) All net funds payment obligations arising on the settlement date shall be effected and settled through the settlement bank, at the time and settlement date, as prescribed in the operational procedures of the depository. Prescribed time of settlement

(2) The settlement referred to in subparagraph (1) shall be effected through the crediting and debiting by the settlement bank of the respective settlement account of the brokers or dealers based on the net position of each broker, as a result of the settlement.

15. Upon settlement of the eligible securities and payment therefor, title to the securities shall transfer on settlement date and the transaction shall be final and irrevocable. Transfer of title

16.—(1) A broker or dealer shall not be permitted to attach any condition or restrictions on the settlement of transactions. Restrictions on settlement

(2) Any conditions and restrictions that are imposed contrary to this Directive, operational procedures or applicable laws shall be void.

Failure of
delivery

17.—(1) Where delivery of securities fail, a broker shall engage free-of-payment procedures as prescribed under the operational procedures of the depository.

(2) In the instances where a settlement failure occurs, the settlement guarantee fund procedures shall be instituted as set out in the operational procedures of the depository.

System
failure

18.—(1) Notwithstanding anything under this Directive, in the circumstances where a terminal at a broker premises is down or disconnected or where any part of the computer system has failed for any reason, it shall be the responsibility of the broker to notify the depository, immediately by telephone and in writing or by other means to convey the relevant information required.

(2) A depository shall, immediately, notify any broker who may be affected by a failure of which the depository is aware.

(3) A depository shall, at all times, ensure that there is adequate back up facilities in order to secure depositors data and that its operations shall resume without unreasonable delay in the event of a computer failure or other disruption of any kind.

Contract
notes

19.—(1) A buying broker and selling broker shall, at the latest, issue contract notes to their clients on the day following the day of trade execution.

(2) A buying broker shall be responsible for making good the settlement of all securities transactions even where the buyer defaults in making payments.

(3) A buying broker shall, at the latest, pay the selling broker by the third day following the day of trade execution.

(4) The selling broker shall, at the latest, pay the seller by the third day following the day of trade execution.

(5) A payment under this paragraph shall be made in the name of the holder of the security.

(6) All payments to third parties by securities broker or dealer are prohibited, except where—

(a) letters of administration are granted by a court; or

(b) where a valid power of attorney is given by the holder of securities.

Reporting

20. A broker shall, on a monthly basis, submit to the Registrar, a summary of trading activities, indicating trade date and payment date of every executed transaction.

Monetary
penalties

21.—(1) A broker who contravenes a provision of this Directive shall be liable to pay to the Registrar, a monetary penalty of seventy-five per cent of the commission earned on the transaction that is subject of the violation.

(2) In addition to a monetary penalty in subparagraph (1) above, the Registrar may impose a monetary penalty of up to K50,000,000.

(3) The penalties in subparagraphs (1) and (2) shall be paid through an electronic bank transfer in favour of the Reserve Bank within five working days after notification.

22. In addition to the monetary penalties in paragraph 21, the Registrar may impose directions or administrative penalties as provided for under the Act and the Financial Services Act. Administrative penalties
Cap.44:05

23. The Securities (Clearing and Settlement) Directive is hereby revoked. Revocation
G.N. 25/2015

Issued this 1st day of May, 2024.

(REF. NO. FIN/PFSPD/02/12)

DR. W. T. BANDA
Registrar of Financial Institutions

GOVERNMENT NOTICE NO. 36

SECURITIES ACT

(CAP. 46:06)

SECURITIES (MINIMUM STANDARDS FOR OPERATING PREMISES OF SECURITIES MARKET PLAYERS) DIRECTIVE, 2024

IN EXERCISE of the powers conferred by section 67 (1) of the Securities Act, I, DP WILSON TONINGA BANDA, Registrar of Financial Institutions, issue the following Directive—

- | | |
|--|---|
| 1. This Directive may be cited as the Securities (Minimum Standards for Operating Premises of Securities Market Players) Directive, 2024. | Citation |
| 2. In this Directive, unless the context otherwise requires “securities market player” includes an exchange, operator of a collective investment scheme, broker, dealer, portfolio manager, transfer secretary, investment advisor and securities market intermediary. | Interpretation |
| 3. The objective of this Directive is to prescribe approval and certification requirements for operational infrastructure and operating premises for securities market players. | Objective |
| 4. A securities market player shall not operate his business from a premises unless the premises is approved and certified in accordance with this Directive. | Securities market players to operate from approved and certified premises |
| 5. —(1) A securities market player shall not— | Requirement for, and grant of, prior written approval of the Registrar |
| (a) acquire or develop a premises for use as a securities business premises; | |
| (b) renovate a securities business premises; | |

- (c) relocate a securities business from one business premises to another;
- (d) merge securities business premises; or
- (e) close a securities business premises, without prior written approval of the Registrar.

(2) An application for approval under subparagraph (1) shall be in Form SBM 1 set out in the *First Schedule* and shall be accompanied by a business case.

(3) An application for approval to relocate a securities business to another premises shall, in addition to the requirements in subparagraph (2), be accompanied by—

- (a) information on the basis for the relocation
- (b) a plan for settlement or transfer of accrued claims and liabilities;
- (c) expected date of relocation; and
- (d) an analysis of the potential and feasibility for the relocation.

(4) The Registrar shall, in assessing an application for prior written approval required under subparagraph (1)—

- (a) inspect the proposed premises; and
- (b) consider—
 - (i) the location of the proposed premises;
 - (ii) the merits and demerits of the proposal, including its impact on the financial inclusion agenda;
 - (iii) the most recent performance indicators and condition of the applicant; and
 - (iv) whether the applicant is under any administrative or enforcement action.

(5) The Registrar shall, within thirty days of receiving the application and upon consideration of the application—

- (a) approve the application on such terms and conditions as he determines appropriate; or
- (b) reject the application and give reasons for the rejection.

6.—(1) A premises shall not be certified for operation of a securities business unless the premises complies with the minimum requirements prescribed in the *Second Schedule*.

(2) The Registrar may require a securities market player to meet higher standards than the standards prescribed in the *Second Schedule*, where the Registrar is of the opinion that the nature and volume of services intended to be offered at the premises require higher standards.

(3) The Registrar shall not certify a premises for operation of a securities business if—

Minimum
certification
requirements
for securities

business
premises

(a) in the case of a multi-storey building, the upper or lower floor or any other adjoining room is used as a residential premises; or

(b) in the case of a semi-detached building, the adjoining building is used as a residential premises.

7.—(1) A securities market player shall inform the Registrar of its intention to occupy a certified premises at least ten working days prior to occupying the premises.

Occupation of
business
premises

(2) The notification under subparagraph (1) shall include—

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

(b) the date on which the premises are expected to be opened for business;

(c) preferable dates on which the Registrar may inspect the premises;

(d) precise location of the premises; and

(e) a proposed organization structure for the premises.

(3) The Registrar shall, within five working days of receiving the notification, inspect the premises and assess the suitability of the premises in line with the requirements set out in the *Second Schedule*.

(4) Where the Registrar is satisfied that the premises do not comply with the minimum requirements stipulated in this Directive—

(a) the securities market player shall rectify the shortfalls;

(b) the Registrar shall, upon being informed of the rectification, re-inspect the premises; and

(c) the securities market player shall bear the costs of the re-inspection.

(5) Where the Registrar is satisfied that the premises comply with the minimum requirements stipulated in this Directive, the Registrar shall issue a premises certificate in Form SBM 2 set out in the *First Schedule* to the securities market player in respect of the premises, on such terms and conditions as the Registrar may determine.

(6) The securities market player shall display the premises certificate at a conspicuous place inside the business premises.

8.—(1) The Registrar may, at any time during office hours, inspect a certified securities business premises to ascertain continued compliance with the prescribed standards and the terms and conditions of the securities business premises certificate.

Routine
inspection
of securities
business
premises

(2) Where the Registrar is of the opinion that the premises—

(a) have ceased to comply with the prescribed standards or any term or condition of the certificate, the Registrar may, by notice in writing, order the securities market player to rectify the deficiencies within a period specified in the notice; or

(b) require higher standards than the standards prescribed in the *Second Schedule*, the Registrar may, by notice in writing, order the securities market player to upgrade the premises as specified in the order within a specified period.

(3) The Registrar shall, at the expiry of the period specified in the order issued under subparagraph (2), re-inspect the premises at the cost of the securities market player.

(4) Where upon re-inspection of the premises in accordance with paragraph (3), the Registrar is of the opinion that the securities market player has not complied with the order issued under subparagraph (2), the Registrar shall revoke the premises certificate.

(5) A securities market player whose premises certificate is revoked under subparagraph (4) may apply for another premises certificate for the premises in accordance with this Directive.

9.—(1) A securities market player shall not temporarily or permanently cease to operate from a certified business premises unless the cessation is approved by the Registrar in writing.

(2) An application to cease to operate from a certified business premises shall be in Form SBM 3 set out in the *First Schedule*.

(3) Where approval is granted for permanent cessation of business operations at certified premises, the securities market player shall—

(a) give at least three months' notice in writing to the public of the intended cessation of business at the premises; and

(b) within fourteen days of ceasing operations at the premises, notify the cessation to the Registrar in writing.

(4) A notice under subparagraph (3)(a) shall be published—

(a) by placing the notice at conspicuous places within and around the premises concerned;

(b) in at least two newspapers of nationwide circulation in Malawi; and

(c) by circulating the notice to government administrative offices in the area where the concerned premises is located.

10.—(1) The board of directors of a securities market player shall put in place policies, procedures and internal controls with regard to acquisition, revaluation, maintenance, depreciation and disposal of securities business premises.

(2) Management of a securities market player shall keep a register of its premises together with all agreements relating to the premises.

(3) A securities market player shall ensure that, where applicable—

(a) the title or lease of its premises is legally valid, and that any necessary steps such as deed registration are taken in a timely manner;

(b) the premises have adequate insurance cover; and

Cessation to temporarily or permanently operate from a certified premises

Board and management responsibilities

(c) the use of the premises conforms to all legal requirements applicable to the location where the premises are situated.

11.—(1) A securities market player who contravenes any provision of this Directive commits an offence, and the Registrar may impose a monetary penalty on the market player and any member of the board of directors or management of the securities market player— Penalties

(a) in the case of a securities market player, of up to K50,000,000; and

(b) in the case of a member of the board of directors or management of the securities market player, of up to K10,000,000.

(2) Payment of a penalty under subparagraph (1) shall be made by the offender—

(a) within five days from the date the notice of the penalty is received by the offender; and

(b) through an electronic bank transfer in favour of the Reserve Bank of Malawi.

(3) In addition to a monetary penalty imposed under subparagraph (1), the Registrar may issue any direction or impose any administrative penalty prescribed under the Act or the Financial Services Act. Cap. 44:05

12. A securities market player who is not satisfied with a decision of the Registrar under this Directive may appeal to the Financial Services Appeals Committee within twenty-one working days of receiving the decision. Appeal against decisions of the Registrar

13. The Securities (Premises Inspection Requirements for Securities Market Players) Directive, 2015 is hereby revoked. Revocation of GN/29/2015

FIRST SCHEDULE

(Para. 5(2))

FORM SBM 1

APPLICATION TO OPEN/MERGE/RENOVATE BUSINESS PREMISES

PART I—GENERAL INFORMATION

- 1 Name of institution.....
- 2 Type and number of licence.....
- 3 Location of head office and branches and dates of establishment

<i>Type of premises</i>	<i>Date established</i>	<i>Location</i>

PART II – NEW BUSINESS PREMISES

4. Type of proposed business premises (head office or branch)
.....
5. Particulars of the proposed business premises:
 - (a) Location: district/town.....
 - (b) Postal address and telephone numbers.....
 - (c) Physical address
- 9 Proposed date of commencement of operations.....
- 10 Do you plan to change the type of business premises (e.g. branch, agency, kiosk)?
.....
If yes, state intended date for the change

PART III – MERGING OF BUSINESS PREMISES

1. Type of proposed business premises (head office or branch)
.....
- 2 Particulars of the proposed business premises:
 - (a) Location: district/town.....
 - (b) Postal address and telephone numbers.....
 - (c) Physical address
- 3 Reasons for the merger.....
- 4 Proposed date of commencement of operations at the merged premises.....

PART IV – RENOVATION OF BUSINESS PREMISES

- 1 Type of proposed business premises (head office or branch)
.....

- 2 Particulars of the business premises to be renovated:
- (a) Location: district/town.....
- (b) Postal address and telephone numbers.....
- (c) Physical address
- 3 Reasons for renovation
- 4 Proposed date of commencement of operations at the renovated premise.....
- Signed.....
- Chief Executive Officer/Principal Officer*
- Date*
- PIC No.....

NOTES

- 1 All enquiries concerning the preparation and filing of this application form shall be made to: The Director, Financial Sector Regulation, Reserve Bank of Malawi, 10 Hannover Avenue, PO Box 565, Blantyre. Email: fsr@rbm.mw.
- 2 Upon completion this application form, submit the form and all attachments to: The Registrar of Financial Institutions, Convention Drive, PO Box 30063, Capital City, Lilongwe 3.

FORM SBM 2

(Para. 7(5))

SECURITIES BUSINESS PREMISES CERTIFICATE

THIS IS TO CERTIFY that the Registrar of Financial Institutions conducted a premises inspection of.....located at..... and has determined that the premises is appropriate for the conduct of a securities market business.

Dated this.....day of, 20....

.....
Registrar of Financial Institutions

NOTES

- 1 This Certificate is not a licence to conduct a securities market business.
- 2 This Certificate shall become invalid upon withdrawal of the securities market business licence.
- 3 The Registrar may revoke this certificate upon being satisfied that the premises no longer meet the prescribed minimum standards or that the facilities therein have deteriorated.

FORM SBM 3

(Para. 9(2))

APPLICATION TO RELOCATE OR CLOSE A BUSINESS PREMISES

PART I—GENERAL INFORMATION

<i>Name of institution</i>	<i>Type and number of licence</i>	<i>Total number and location of branches and outlets and dates of establishment</i>	<i>Significant shareholders, nationality, address and shareholding percentage</i>	<i>Type of business premises to be closed or relocated (e.g. branch, agency etc.)</i>

PART II—RELOCATION

1 Particulars of business premises to be closed:

(a) Postal address and telephone numbers:.....

(b) Physical address:.....

(c) District, City/ Town:-.....

2 State reasons necessitating relocation of the business premises

:.....

3 Particulars of new business premises:.....

(a) Postal address and telephone numbers:.....

(b) Physical address :.....

(c) District, City/ Town:.....

4 Is the new business premises—

(a) self-owned?..... Yes/No*..... If yes, cost of purchase or construction.....

:.....

(b) leased?..... Yes/No*..... If yes, provides lease agreement

(c) If agency type, provide agency agreement:.....

5 Proposed date of commencement of operations at the new premises

6 Do you plan to change the status of the new business premises?

If yes, state the proposed type of status and expected date of change.....

:.....

PART III—CLOSURE

- 7 Particulars of business premises to be closed—
- (a) Postal address and telephone numbers.....
- (b) Physical address
- (c) District, City/Town.....
- 8 State reasons necessitating closure of the business premises:
- 9 Indicate profitability of the branch, in the last three years
- 10 Provide the proposed action plan on current branch employees.....
- 11 Are there other securities business facilities provided in the vicinity?.....
- If so, state by whom.....
- Signed..... Date:
- Chief Executive Officer/Principal Officer*

SECOND SCHEDULE

MINIMUM REQUIREMENTS FOR SECURITIES BUSINESS PREMISES

	<i>CHARACTERISTICS</i>	<i>Mandatory/ optional</i>
1.	General outside surroundings:	
	(a) Ensure that the outer walls are of strong reinforcement materials	Mandatory
	(b) Windows must have blinds or tinted to obscure outsiders from observing transactions conducted inside	Mandatory
	(c) Backyard windows must be reinforced	Mandatory
	(d) The surrounding perimeter must have all the necessary security features to cater for the day and night. Such security features shall include—	
	(i) alarm or satellite communication system that must be connected to the securities market player's management for speedy communication to security agents or police;	Optional
	(ii) security lights;	Mandatory
	(iii) a fence;	Optional
	(iv) Security guards/commissionaires for day and night who should have access to alarm system;	Mandatory
	(v) Signage post that must be conspicuously displayed	Mandatory

	<i>CHARACTERISTICS</i>	<i>Mandatory/ optional</i>
	(e) Entrance and exit doors must be protected (e.g. with intruder alarm, strong steel trellis bars or burglar bars)	Mandatory
	(f) The premises should at least have a customers' car park	Mandatory
2.	General inside requirements:	
	(a) Availability of strong room or chubb	Mandatory
	(b) The strong room or chubb must be dual controlled, securely located out of customers' sight, made of heavy iron, and preferably fire proof	Mandatory
	(c) Ensure that the front office has reliable, fast, efficient computers for better customer service	Mandatory
	(d) Ensure that there are monitoring cameras (closed circuit television system) in all the strategic areas, e.g. entrance or exit doors, corridors, and front or back yard.	Optional
	(e) All strategic areas must have— (i) smoke detectors; (ii) fire extinguishers that must be regularly tested for functionality; and (iii) emergency exit doors (e.g. one way opening from inside) and an Emergency Evacuation Plan.	Mandatory
	(f) The roof must be properly secured e.g. intruder alarm system	Mandatory
	(g) For speedy communication, ensure that reliable telephone and internet facilities are installed and functional	Mandatory
3.	Other Features:	
	(a) The premises must have an off-site back-up centre for data and systems	Mandatory
	(b) Utilities such as electricity, water, etc., must be available and in working order	Mandatory
	(c) Have a standby power generator or uninterruptible power supply (UPS) to cater for periods of power failures	Mandatory
	(d) Ensure that operational policies and procedural guidelines of a securities market player are in place and are made available and known by relevant users	Mandatory

Issued this 1st day of May, 2024.

DR. W. T. BANDA

Registrar of Financial Institutions

GOVERNMENT NOTICE NO. 37

SECURITIES ACT

(CAP. 46:06)

SECURITIES (REGISTRATION REQUIREMENTS OF SECURITIES) DIRECTIVE,
2024

IN EXERCISE of the powers conferred by section 67(1) of the Securities Act, I, DR. WILSON TONINGA BANDA, Registrar of Financial Institutions, issue the following Directive—

1. This Directive may be cited as Securities (Registration Requirements of Securities) Directive, 2024. Citation

2. In this Directive, unless the context otherwise requires— Interpretation

“articles” means articles of association of a body corporate;

“convertible debt securities” means debt securities convertible into or exchangeable for equity securities;

“debt securities” means debenture or loan stock, bonds, notes and other securities or instruments acknowledging, evidencing or creating indebtedness, whether secured or unsecured, and options, warrants or similar rights to subscribe or purchase any of the foregoing, and convertible debt securities;

“equity securities” means shares, including preference shares and options, warrants or rights to subscribe for shares;

“initial public offer” means the first sale of shares of a body corporate to the public;

“issuer” means a company or other legal person whose equity or debt securities are the subject of an application for registration or some of whose equity or debt securities are already registered;

“material information” means information for which there is a likelihood that a reasonable investor would consider it important in making an investment decision, or information that is reasonably certain to have effect on the price of a company’s securities, and may include—

(a) earnings;

(b) mergers, acquisitions, tender offers, or joint ventures;

(c) changes in assets or asset quality;

(d) innovative products, processes, or discoveries, for instance, new product trials or research efforts;

(e) new licenses, patents, registered trademarks, or regulatory approval or rejection of a product;

(f) developments regarding customers or suppliers, for instance, the acquisition or loss on a contract;

(g) changes in management;

(h) change in auditor notification or the fact that the issuer may no longer rely on an auditor's report or qualified opinion;

(i) events regarding the issuer's securities, for instance, defaults on senior securities, calls of securities for redemption, repurchase plans, stock splits, changes in dividends;

(j) changes to the rights of security holders, and public or private sales of additional securities;

(k) bankruptcies;

(l) significant legal disputes;

(m) government reports of economic trends, employment, housing starts, currency information and other matters;

(n) orders for large trades before they are executed; and

(o) new or changing equity or debt ratings issued by a third party, for instance, sell-side recommendations, credit ratings and others;

"new applicant" means an applicant for listing, none of whose equity or debt securities is already registered;

"order for large trade" means an order for a security above a specified volume or value set by the stock exchange, whose details, if published, are likely to affect the price of the security and requires prior approval by the stock exchange;

"profit forecast" means any numerical or verbal indication of the level of profit for a future accounting period, or for a past accounting period for which results have not been announced to the public, including forms of words which may be used in conjunction with published data to arrive at an approximate figure for future profit by an arithmetic process;

"prospectus" means a formal legal document designed to provide information and full details about an investment offering for sale to the public;

"public offer" means an offer for sale of securities of a body corporate;

"publicly traded" means a security that is offered to the public; and

"reporting accountant" means a professional accountant who is responsible for the preparation of the accountant's report required to be included in a prospectus.

Objectives

3. The objective of this Directive is to prescribe registration requirements for securities.

Registration

4.—(1) A security intended to be publicly traded or offered to the public shall be registered with the Registrar.

(2) The issuer shall register the security with the Registrar, before publishing a prospectus.

(3) An application for registration of securities shall be made by an issuer and shall consist of the following—

(a) an application letter to the Registrar—

(i) signed by a duly authorized officer of the issuer, whose securities are the subject of the application for registration; and

(ii) which shall contain the information specified in the *First Schedule*;

(b) a prospectus that complies with the content requirements set out in the *Second Schedule* and *Third Schedule*;

(c) where the applicant intends to list the securities, a recommendation letter from a stock exchange, confirming that the prospectus complies with the listing requirements and the Registrar should consider registering the security;

(d) an investor education plan, which shall include specific messages, activities, delivery channel, places and dates for implementation;

(e) supporting documents as follows—

(i) a certified copy of the issuer's certificate of incorporation;

(ii) a certified copy of the issuer's memorandum of association and articles of association;

(iii) the audited annual reports and accounts for three completed financial years of the issuer and its subsidiaries, if any, immediately preceding the application or such shorter period as may be accepted by the Registrar;

(iv) a certified copy of the resolution of the issuer in a general meeting, authorizing the issue of all securities for which registration is sought;

(v) a resolution of the board of directors authorizing the issue of all securities for which registration is sought;

(vi) a certified copy of any resolution of the issuer in a general meeting and of the board of directors, authorizing any alterations in the share capital of the company, or any mergers or amalgamations, within the period of five years preceding the date of the application for registration;

(vii) in the case of debt securities, a copy of the trust deed or other document securing or constituting the debt securities; and

(viii) any other documentation as may be required by the

Registrar.

(4) The application for registration under this paragraph shall be accompanied by proof of payment of a non-refundable registration fee of K500,000 paid by an electronic bank transfer to a designated account held at the Reserve Bank of Malawi, as specified in the *First Schedule*.

5. Where a prospectus issued in accordance with paragraph 4 is false or misleading, each of the directors of the issuer commits an offence provided under section 48 of the Act.

False or
misleading
information

Approval or
denial of
registration

6.—(1) The Registrar shall communicate to the applicant the outcome of the application within seven days of receipt of a complete set of accurate information.

(2) Where an application for registration is approved, the Registrar shall issue a registration certificate to the applicant in the form set out in the *Fourth Schedule*.

(3) Where an application for registration is denied, the Registrar shall communicate to the applicant, in writing, the reasons for the denial.

(4) An applicant who is not satisfied with the reasons provided pursuant to subparagraph (4) may appeal to the Financial Services Appeals Committee, within twenty-one working days of receiving the communication.

Prospectus to
be published

7.—(1) Upon registration of a security, an issuer shall publish a prospectus by making it available to the public or a section of the public, free of charge, during the offer period—

(a) at an address in Malawi; and

(b) on the company's or licensed stock exchange's website.

(2) The prospectus shall be published in English language and the text shall be in a legible font.

(3) An issuer may distribute an approved prospectus to prospective investors through electronic form, provided that the prospectus shall be in the form and content as prescribed in the *Second Schedule* and *Third Schedule*.

Electronic
offer of
securities

8.—(1) A person shall not offer any security to the public through an electronic form, unless where the offer has been made on the basis of a prospectus approved by the Registrar.

(2) A person offering a security through an electronic form which has been approved by the Registrar shall state, in the prospectus, whether the application for subscription of such security may be made in an electronic form and in that regard, the procedure and process of facilitating subscription and payment shall be disclosed in the prospectus.

Allotment of
securities

9.—(1) An allotment of a security offered to the public shall be made on the basis of the allotment policy disclosed in the prospectus, unless the results of the subscription make such policy impractical and in such a case an amendment of the allotment policy shall be made with the approval of the Registrar.

(2) Where an amendment of an allotment policy has been approved by the Registrar, the issuer shall announce the fact within twenty-four hours of the grant of the approval.

(3) When developing an allotment policy, an issuer or offeror shall ensure that the policy reserves at least fifty per centum of the ordinary shares that are subject to an initial public offering and subsequent listing for investment by local investors.

(4) Where the per centum reserved for local investors is not fully subscribed for by local investors, the issuer or offeror may, with the prior written approval of the Registrar, allocate the shares remaining to foreign investors.

(5) A person shall not publish the results of the allotment of the public offer without notifying the Registrar of the results, at least twenty-four hours prior to the date on which the allotment results are to be released to the public.

10. An issuer shall conduct investor education during the offer period in accordance with the approved investor education plan. Investor education

11.—(1) A company proposing to offer its securities to the public or a section of the public shall appoint an investment adviser. Investment adviser

(2) An investment adviser appointed under subparagraph (1) shall be responsible for ensuring that the offer of the securities is made in accordance with the Act and directives issued thereunder.

(3) A person shall not be eligible for appointment as an investment adviser, unless that person is licensed as an investment adviser and approved by the Registrar to act as an adviser for the particular offer of securities.

12.—(1) In the case of an initial public offer or offer of listed securities, an issuer shall have an underwriting arrangement, unless the issuer provides and demonstrates evidence to the stock exchange, on which it intends to list, that the prescribed number of subscribers will be achieved without the need for underwriting. Underwriting arrangements

(2) Any underwriting arrangement under this paragraph shall be subject to the prior approval of the Registrar.

(3) Where the underwriter is a person related or associated with the issuer, the underwriter shall undertake to the Registrar to dispose of any shares arising from the underwriting agreement within a period predetermined by the issuer and approved by the Registrar.

(4) The Registrar may extend the period referred to in subparagraph (3) if satisfied that such extension would be in the best interest of the holders of ordinary shares of the company, having regard to the prevailing market conditions and any other factors that are relevant in the circumstances.

(5) Where the Registrar extends the period referred to in subparagraph (3), in accordance with subparagraph (4), the issuer shall make a public announcement disclosing the period of such extension, any conditions attached to the extension and the circumstances necessitating the extension, in at least two daily newspapers of national-wide circulation.

13.—(1) An issuer shall keep the Registrar, members of the issuer and other holders of its registered securities, informed, immediately upon becoming known, any information relating to the issuer and its subsidiaries that— Disclosure requirements

(a) is necessary to enable the Registrar, members of the issuer and other holders of its registered securities and the public to appraise the financial position and performance of the issuer and its subsidiaries, if any; or

(b) might reasonably be expected to materially affect market activity in the price of its securities.

(2) Notwithstanding subparagraph (1), disclosures may be withheld in the following circumstances which constitute an infrequent exception—

(a) when immediate disclosure would prejudice the ability of the issuer to pursue its corporate objectives;

(b) when the facts are likely to change and a more appropriate moment for disclosure is imminent;

(c) when the issuer is holding negotiations and such negotiations have not reached a finality; and

(d) where there is a requirement for maintenance of strict confidentiality, on material information for a temporary period.

(3) Where rumours concerning information in subparagraphs (2) develop, then the issuer shall, immediately, make a public disclosure or in the case of a listed issuer, shall, immediately, make a request to the stock exchange for suspension of trading.

14.—(1) An issuer shall send to every member of the issuer, the Registrar and the stock exchange on which its securities are listed, a copy of the directors' report and audited annual accounts within three months of the close of its financial year.

(2) The issuer shall include the following information in its directors' report and audited financial accounts—

(a) a description of the principal activities of the issuer and its subsidiaries, if any, and, where two or more such activities are so described, a statement giving the turnover in respect of each such activity;

(b) a geographical analysis of consolidated turnover and of its subsidiaries, if any, outside Malawi;

(c) a statement showing—

(i) the name of every subsidiary, its principal country of operation, its country of incorporation and its main business; and

(ii) particulars of the issued share capital and debt securities of every subsidiary;

(d) a statement as at the date of the relevant financial year showing—

(i) the interests of each director of the issuer in the equity or debt securities of the issuer or its subsidiary, if any; and

(ii) the details of any right to subscribe for equity or debt securities of the issuer granted to any director of the issuer and of the exercise of any such right;

(e) in the event of operating results shown by the accounts for the period under review differing materially from any published forecast made by the issuer, an explanation of the difference in the results;

(f) a statement by the directors as to the reasons for any significant departure from applicable standard accounting practices in Malawi;

(g) a statement as at the end of the financial year, showing as regards, bank loans and overdrafts and other borrowings of the issuer and its subsidiaries, if any, the aggregate amounts repayable—

(i) on demand, or within a period not exceeding one year;

(ii) within a period of more than one year but not exceeding two years;

(iii) within a period of more than two years but not exceeding five years; and

(iv) within a period of more than five years;

(h) a statement as to the unexpired period of any service contract, which is not determinable by the employer, within one year, without payment of compensation, other than any statutory compensation, of any director proposed for election at a forthcoming annual general meeting or, if there are no service contracts, a statement of that fact;

(i) summary particulars of any contract of significance for provision of services, subsisting during, or at the end of, a financial year in which a director of the issuer is, or was, materially interested, either directly or indirectly, or, if there has been no such contract, a statement of that fact;

(j) summary particulars of any contract of significance for provision of services between the issuer, or one of its subsidiary companies and a controlling shareholder or any of its subsidiaries; and

(k) summary particulars of any arrangement under which a director has waived or agreed to waive any emoluments.

(3) With regard to the statement provided pursuant to subparagraph (2) (c), where, in the opinion of the directors of the issuer, the number of the subsidiaries is such that compliance with the subparagraph would result in particulars of excessive length being given, compliance with this paragraph shall not be required by the issuer, except in the case of subsidiaries carrying on a business, the results of which, in the opinion of the directors, materially affect the amount of the profit or loss of the issuer and its subsidiaries, if any, or the amount of the assets of the issuer and its subsidiaries, if any.

(4) The statement required under subparagraph (2) (d) shall—

(a) distinguish between beneficial and non-beneficial interests; and

(b) specify the company in which securities are held, the class to which those securities belong and the number of such securities held.

(5) Where the relevant annual accounts do not give a true and fair view of the state of affairs, and profit and loss of the issuer and its subsidiaries, if any, the Registrar shall demand that more detailed or additional information be provided.

Interim report

15.—(1) An issuer shall prepare an interim report, in respect of the first six months of each financial year of the issuer.

(2) Where the issuer is new and there is less than six months remaining before the end of its financial year the issuer shall prepare an interim report for that remaining period not later than three months after the end of that period.

(3) The issuer shall publish the interim report in at least two newspapers of nation-wide circulation, a day after approval by its board, and send a copy of the interim report to every member, the Registrar and the stock exchange on which its securities are listed.

(4) Each interim report referred to in subparagraph (1) shall contain at least the following financial information, stated in respect of the issuer and its subsidiaries, if any—

(a) turnover of the issuer;

(b) profit or loss before taxation and extraordinary items, including the share of the profit or loss of the associated companies with separate disclosure of any items included therein, which are exceptional because of size and incidence;

(c) taxation on profits in Malawi and overseas, in each case indicating basis of computation with separate disclosure of the taxation on share of associated companies' profits;

(d) profit or loss attributable to non-controlling interests;

(e) profit or loss attributable to shareholders before extraordinary items;

(f) profit or loss attributable to shareholders;

(g) amount of dividend paid or proposed on each class of share with particulars of each such class, and amounts absorbed thereby or an appropriate negative statement;

(h) transfers to, and from, reserves;

(i) earnings per share calculated on the basis of profits before extraordinary items; and

(j) comparative figures of the matters specified in subparagraphs (a) to (i) inclusive of the corresponding previous period.

(5) Where the accounting information given in an interim report has not been audited, that fact shall be stated.

(6) Where the accounting information contained in an interim report has been audited by the issuer's auditor, the auditor's report, including any qualifications, shall be set out in the interim report.

(7) Any preliminary announcement of financial information for the full year shall also contain the information required under subparagraph (2).

16.—(1) An issuer shall inform the Registrar, immediately after approval by its board, of—

(a) any decision to declare, recommend or pay any dividend or to make any other distribution on its listed securities and the rate and amount thereof;

(b) any proposed change in the capital structure, including any redemption of its listed securities; and

(c) any decision to change the general character or nature of the business of the issuer, and subsidiaries, if any.

(2) The issuer shall, immediately, also inform the Registrar of any decisions made with regard to—

(a) any proposed alteration of memorandum and articles of association of the issuer;

(b) any change in the rights attaching to any class of listed securities and any change in the rights attaching to any shares into which any listed debt securities are convertible or exchangeable; and

(c) any changes in its secretariat, auditors or registered address.

17.—(1) An issuer shall inform the Registrar of the basis of allotment of securities offered to the public for subscription or sale, or an open offer and of the results of any rights issue and if applicable, of the basis of any acceptance of excess application. Basis of allotment of securities

(2) The board of the issuer shall ensure that the basis of allotment of securities is fair to all applicants or subscribers.

18.—(1) An issuer shall report to the Registrar of the occurrence of any of the following events, as soon as they come to the attention of the issuer— Other events to be reported

(a) the presentation of any winding-up petition, or equivalent application in the country of incorporation or other establishment;

(b) the making of any winding-up order or the appointment of a provisional liquidator, in respect of the issuer, its holding company or any major subsidiary;

(c) the passing of any resolution by the issuer, its holding company or any major subsidiary that it be wound-up by way of members' or creditors' voluntary winding up;

(d) the entry into possession, or the sale by any mortgagee, of a portion of the issuer's assets which, in aggregate value represents an amount in excess of fifteen per cent of the consolidated net tangible assets of the issuer and its subsidiaries, if any; and

(e) the making of any judgement, declaration or order by any court or tribunal of competent jurisdiction whether on appeal or at first instance, which may adversely affect the issuer's enjoyment of any portion of its assets which in aggregate value, represents an amount in excess of fifteen per cent of the consolidated net tangible assets of the issuer and its subsidiaries, if any.

(2) For the purposes of subparagraph (1), a "major subsidiary" means a subsidiary representing fifteen per cent or more of the consolidated net tangible assets, or fifteen per cent or more of the pre-tax trading profits of the issuer and its subsidiaries, if any.

Consent of
shareholders

19.—(1) The directors of an issuer shall obtain the consent of the existing shareholders, in a general meeting, prior to—

(a) allotting, issuing or granting—

(i) shares;

(ii) securities convertible into shares; or

(iii) options, warrants or similar rights to subscribe for shares,

where such action will result in material dilution of the percentage equity interest of its shareholders

(b) any major subsidiary of the issuer making any such allotment, issue or grant, so as to materially dilute the percentage equity interest of the issuer and its shareholders in such subsidiary; and

(c) allotting any voting shares, if such allotment would effectively alter the control of the issuer.

(2) Notwithstanding the provisions of subparagraph (1), consent of the shareholders shall not be required for the allotment, issue or grant of securities and, where appropriate, to holders of other equity securities of the issuer entitled to be so offered, *pro rata*, apart from fractional entitlement to their existing holdings.

Registrar's
approval to be
obtained

20. In addition to the specific requirements set out in this Directive, an issuer shall submit to the Registrar, for approval, copies of the following drafts, before they are issued—

(a) announcements or advertisements relating to the issue of new or further securities other than pursuant to a capitalisation issue or a scrip dividend scheme, or any announcements or advertisements, the subject matter of which may involve a change in, relate to, or affect, arrangements regarding trading in its registered securities including a suspension of dealings;

(b) documents issued in connection with takeovers, mergers or offers; and

(c) proposed amendment to its articles.

Registration
of further
securities

21. An issuer shall apply for the registration of any further securities which are of the same class as securities already registered, prior to their issue.

Equality of
treatment

22. An issuer shall ensure equal treatment for all holders of securities of the same class who are in the same holding position.

Registrar's
queries

23. An issuer shall respond, within five working days, to any queries made to the issuer by the Registrar, concerning unusual movements in the price or trading volume, of its registered securities or any other matters, by giving such relevant information as is available to the issuer or, if appropriate by issuing a statement to that effect.

24. The Registrar may require the publication of further information by, or impose additional requirements on, an issuer, where the Registrar considers that circumstances so justify, but will allow representations by the issuer before imposing any additional requirements on it, which are not imposed on registered issuers, generally.

Additional requirements may be imposed

25.—(1) An issuer shall—

Reporting

(a) file with the Registrar annual, quarterly or current reports as may be required by the Registrar, in such a manner and containing such information as the Registrar may specify by way of guidelines;

(b) simultaneously file with any stock exchange on which such securities are traded, the reports specified in clause (a); and

(c) disseminate to shareholders, within ten working days after filing with the Registrar thereof, the reports specified in clause (a).

(2) An issuer shall inform and keep the public informed of any material information, immediately upon becoming known to the directors of the issuer, by placing a notice, in at least two newspapers of nation-wide circulation, its website and by reporting to the Registrar and to any stock exchange on which the securities are listed.

(3) Where an issuer is part of a group and information in subparagraph (2) also materially affects another issuer company in that group, then such disclosure shall be done simultaneously by the affected issuers.

26.—(1) The Registrar shall impose the following monetary penalties for violations of these Directives—

Penalties

(a) for issuers, up to K50,000,000; and

(b) for natural persons who are members of the board of directors or management of an issuer, up to K20,000,000.

(2) An offender shall pay a monetary penalty under subparagraph (1)—

(a) within five days from the date the notice of the penalty is received by the offender; and

(b) through an electronic bank transfer in favour of the Reserve Bank of Malawi.

(3) In addition to a monetary penalty imposed under subparagraph (1), the Registrar may issue any direction or impose any administrative penalty prescribed under the Act or the Financial Services Act.

Cap. 44:05

27. The Securities (Registration Requirements for Securities) Directive, 2015 is hereby revoked.

Revocation
G.N. 24/2015

FIRST SCHEDULE

para 4 (3) (a)(ii)

INFORMATION TO BE PROVIDED IN LETTER OF APPLICATION FOR
REGISTRATION OF SECURITIES

(1) Title page

- (a) the name of the applicant and the date of incorporation;
- (b) the address of the principal registered office and the address of each office at which a securities register is kept; and
- (c) the date of application and a formal request for the registration of the securities in respect of which application is made, specifying the amount, class and par value and whether they are to be fully paid.

(2) Capitalization

A list, in tabular form, of—

- (a) the designation or title of each class of security;
- (b) the number of securities authorized;
- (c) the number of securities issued;
- (d) the par value of the securities issued;
- (e) the amount paid up;
- (f) the names, residential as well as postal address and business occupation of every director or proposed director and of secretary or proposed secretary of the company and officers of the issuer and their respective shareholdings where applicable; and
- (g) so far as is known, or can be ascertained after reasonable inquiry, the names of controlling shareholders of the issuer and their respective shareholdings.

(3) History and Nature of Business

A short introductory paragraph describing the general nature of the business and products of the applicant. A brief history of the issuer from inception to the date of application. A description of the business now carried on by the issuer and its subsidiaries, including principal goods and services, main markets and main sources of supply, and volume of output for the preceding three financial years and for the current financial year to the latest date available.

(4) Summary of earnings

A summary of earnings, on a consolidated basis if the applicant has subsidiaries, for the last three financial years, showing sales, earnings before charges for depreciation, interest and income tax, the amount of each of those charges, net income and earnings per share.

(5) Tabulation of financial position

A tabulation of the statement of financial position of the applicant, for each of the last three financial years, on a consolidated basis if the applicant has subsidiaries. The tabulation shall include a statement of the net tangible assets per share for each of the three financial years.

(6) Employees

A statement as to the total number of persons regularly employed and, if subject to seasonal fluctuations, the number of persons employed during the preceding twelve months.

(7) Subsidiaries

A tabular list of all subsidiaries showing, in respect of each such subsidiary company—

- (a) the name of the company;
- (b) a brief statement of the nature of its business and its relationship to the operations of the applicant; and
- (c) capital share issues by classes, showing the par value, amount authorized, amount issued and the amount owned by the holding company.

(8) Dividend record

State the number of consecutive years in which dividends have been paid. State the amount of dividend, per share and in the aggregate, paid by the applicant or its subsidiaries for each of the three preceding years. Indicate whether dividends have been paid on a quarterly, semi-annual or annual basis. State the record date, payment date

a n d
the date of declaration with respect to each dividend paid during the past three years.

(9) Properties

Describe briefly the general character of the properties of the applicant and its subsidiaries, including—

- (a) location;
- (b) land area and land use;
- (c) number and type of buildings;
- (d) aggregate floor area of buildings; and
- (e) whether the property is owned or leased, and if leased, state total rental paid for each of the three preceding financial years and average term of years owned or leased.

(10) Litigation

Particulars of any litigation or claims of material importance pending or threatened against the applicant or any member of a group to which the applicant belongs.

(11) Management (Governance)

(a) The full name, residential or business address and description of area of qualification or area of expertise or responsibility, of every director or proposed director, or any such person who performs an important administrative, management or supervisory function, and particulars of the principal functions performed by each of them within the applicant and its subsidiaries, if any, if significant to the applicant and its subsidiaries, if any;

- (b) the nature of any family relationship between the persons mentioned in (a);
- (c) a brief account of the business experience of each of these persons during the last five years;

- (d) indicate any other directorships held by each director or proposed director; and
- (e) state whether any director or proposed director has been convicted in any criminal proceeding or has had a bankruptcy petition filed against him or any partnership in which he was a partner or any body corporate of which he was a director.

(12) Bankers

Name and address of the applicant's bankers and bank account details.

(13) Auditors

Name, address and professional qualifications of the applicant's auditors.

(14) Sponsoring stockbroker

Name and address of sponsoring stockbroker.

(15) Legal practitioners

Name and address of legal practitioners

SECOND SCHEDULE

para 4 (3) (b) and 7(3)

INFORMATION TO BE CONTAINED IN A PROSPECTUS

SECTION A-EQUITY SECURITIES

GENERAL INFORMATION ABOUT THE ISSUER, ITS ADVISERS

- 1.—(1) The full name, physical and postal address of the registered office, of the applicant or issuer.
- (2) A statement as follows—
- “The directors collectively and individually accept full responsibility for the accuracy of the information contained in this prospectus and confirm, having made all reasonable inquiries that to the best of their knowledge and belief there are no other facts the omission of which would make any statement herein misleading.”
- (3) The names and addresses of the issuer's principal bankers and registrars.
- (4) The name, address and professional qualifications of the issuer's auditors.
- (5) The date of incorporation.
- (6) The provisions or a sufficient summary of the provisions, of the articles with regard to—
- (a) any power enabling a director to vote on a proposal, arrangement or contract in which the director is materially interested;
- (b) any power enabling the directors to vote to determine the remuneration including pension or other benefits, to themselves or any members of their body and any other provision as to the remuneration of the directors;
- (c) borrowing powers exercisable by the directors and how such borrowing powers can be varied;
- (d) retirement or non-retirement of directors;

- (e) directors' qualification shares;
 - (f) changes in share capital; and
 - (g) arrangements for transfer of the securities and, where permitted, any restrictions on their free transferability.
- (7) Where the prospectus includes a statement purporting to be made by an expert, a statement—
- (a) specifying the qualifications of such expert and whether such expert has any shareholding in the applicant or issuer or any group to which the applicant issuer belongs or the right, whether legally enforceable or not, to subscribe for or to nominate persons to subscribe for securities in the issuer or any such member and, if so, a full description thereof;
 - (b) that the expert has given and has not withdrawn his written consent made prior to the issue of the prospectus, with the expert's statement included in the form and context in which it was in fact made; and
 - (c) of the date on which the expert's statement was made and whether or not it was made by the expert for incorporation in the prospectus.

STATEMENT THAT AN APPLICATION HAS BEEN MADE

2. A statement that application has been made to the Registrar for registration of the securities.

INFORMATION ABOUT THE SECURITIES FOR WHICH REGISTRATION IS SOUGHT

- 3.—(1) The nature and amount of the issue including the number of securities which have been, or will be, created and issued, and a full description of, including a summary of, the terms attaching to, the securities for which listing is sought.
- (2) The following information, so far is appropriate, concerning the terms and conditions of the issue of the securities in respect of which the application for registration is made—
- (a) the total amount of the issue and the number of securities offered, where applicable, by category;
 - (b) the issue price or offer price of each security, stating the nominal value of each security;
 - (c) the methods of payment of the issue or offer price, particularly as regards the paying-up of securities which are not fully paid;
 - (d) the procedure for the exercise of any right of pre-emption and the transferability of subscription rights;
 - (e) the period during which the issue or offer of securities will remain open after issue of the prospectus, the date and time of opening of the subscription list, and the names of the receiving bankers;
 - (f) the methods of, and the time limits for, delivery of the securities;
 - (g) the names, addresses and description of the persons underwriting the issue for the issuer; and

- (h) in the case of an offer for sale of securities, the names, addresses and descriptions of the vendor(s) of the securities or, if there are more than ten vendors, such details of the ten principal vendors and a statement of the number of other vendors and particulars of any beneficial interest possessed by any director of the issuer in any securities so offered for sale.

NET TANGIBLE ASSETS

- 4 A statement of the net tangible asset backing for each class of security for which registration is sought, after making allowance for any new securities to be issued.

INFORMATION ABOUT THE ISSUER'S CAPITAL

- 5.—(1) The authorized share capital of the applicant or issuer, the amount issued or agreed to be issued, the amount paid up, the nominal value and a description of the shares.
- (2) The amount of any outstanding convertible debt securities and particulars of the conditions governing, and the procedures for conversion, exchange or subscription of, such securities.

VOTING RIGHTS

- 6.—(1) Indicate the voting rights of shareholders.
- (2) If there is more than one class of share—
- (a) state the rights of each class of share as regards voting, dividend, capital, redemption;
- (b) state the creation or issue of further shares ranking in priority to, or in pari passu with, each class other than the lowest ranking equity; and
- (c) provide a summary of the consent necessary for the variation of such rights.

ALTERATIONS IN CAPITAL

7. Particulars of any alterations in the capital of the applicant or issuer or any member of a group to which the applicant or issuer belongs within the two years immediately preceding the issue of the prospectus, including—
- (a) where any such capital has been issued or is proposed to be issued as fully or partly paid up otherwise than in cash, particulars of the consideration for which the same has been or is proposed to be issued and in the latter case, the extent to which they are so paid up; and
- (b) where any such capital has been issued or is proposed to be issued for cash, particulars of the price and terms upon which the same has been or is proposed to be issued, details of any discounts or other special terms granted and if not already fully paid, the dates when any installments are payable with the amount of all calls or installments in arrears.

PARTICULARS OF ANY CAPITAL UNDER OPTION

- 8.—(1) Particulars of any capital of the issuer or any member of a group to which the issuer belongs which is under option, including the consideration for which the option was, or will be, granted and the price and duration of the option, and the name and address of the grantee.

- (2) Where options have been granted or agreed to be granted to all members or debenture holders or to any class thereof, or to employees under a share scheme, it shall be sufficient, so far as the names and addresses are concerned, to record that fact without giving the names and addresses of the grantees.

GENERAL INFORMATION ABOUT ACTIVITIES OF THE ISSUER AND ITS
SUBSIDIARIES, IF ANY

- 9.—(1) A brief history and the general nature of the business of the issuer and its subsidiaries, if any, and, in cases where two or more activities are carried on which are material in terms of profits or losses, assets employed or any other factor, such figures and explanation as are necessary to demonstrate the relative importance of each such activity and details of the main categories of products sold or services performed and an indication of any significant new products or activities.
- (2) Where the issuer and its subsidiaries, if any, trade outside Malawi, a statement showing a geographical analysis of its trading operations, and where a material proportion of the assets of the issuer and its subsidiaries, if any, are situated outside Malawi, a statement giving the best practicable indication of the amount and situation of such assets and the amount of assets situated in Malawi.
- (3) Where the issuer is a member of a group, a brief description of that group covering the issuer's position within that group and, if a subsidiary, the names of, and the number of shares held directly or indirectly, by each holding company of the issuer.
- (4) Particulars of any licences, concessions, contracts, trademarks, patents or other intellectual or industrial property rights which are material in relation to the business of the issuer and its subsidiaries, if any, and, where such factors are of fundamental importance to the business or profitability of the issuer and its subsidiaries, if any, a statement regarding the extent to which the issuer and its subsidiaries, if any, are dependent on such factors.
- (5) Information concerning the policy of the issuer and its subsidiaries, if any, on the research and development of new products and processes over the past five financial years, where significant.
- (6) Particulars of any interruptions in the business of the issuer and its subsidiaries, if any, which may have or have had, a significant effect on the financial position in the last twelve months.
- (7) The number of people employed by the issuer and its subsidiaries, if any, and changes therein in the last financial year, if such changes are material in the context of the group with, if possible, a breakdown of persons employed by main categories of activity.
- (8) Particulars, including location, of the principal investments, if any, including such investments as new plant, factories and research and development, being made or planned by the issuer and its subsidiaries, if any.
- (9) The restrictions, if any, upon the business of the applicant or issuer contained in the memorandum of association.

PARTICULARS OF SUBSIDIARIES

- 10.—(1) With regard to every subsidiary company the whole of, or more than twenty-five percent of the votes exercisable at a general meeting, whose capital is held or intended to be held, either directly or indirectly, by the issuer, or whose profits or assets make or will make a material contribution to the figures in the accountants' report or the next published accounts, particulars of the name, date and country of incorporation, general nature of business, issued capital and the proportion thereof held or intended to be held.
- (2) With regard to the issuer and its subsidiaries, particulars of the location of the principal establishments.

FINANCIAL INFORMATION ABOUT THE ISSUER AND ITS SUBSIDIARIES, IF ANY

- 11.—(1) A report by the reporting accountants prepared in accordance with the *Third Schedule*.
- (2) A statement of whether or not the accountants' report is qualified by the reporting accountants and if so, such qualifications shall be produced in full and the reasons for such qualifications given.

DETAILS OF INDEBTEDNESS

12. A statement as at the most recent practicable date, which shall be stated, of the following, on a consolidated basis—
- (a) the total amount of any debt securities of the issuer and its subsidiaries, if any, issued and outstanding, and authorized or otherwise created but unissued, and term loans, distinguishing between guaranteed, unguaranteed, secured, whether the security is provided by the issuer or by third parties, and unsecured;
- (b) the total amount of all other borrowings or indebtedness in the nature of borrowing of the issuer and its subsidiaries, if any, including bank overdrafts and liabilities under acceptances, other than normal trade bills, or acceptance credits or hire purchase commitments, distinguishing between guaranteed, unguaranteed, secured and unsecured borrowings and debt;
- (c) all mortgages and charges of the issuer and its subsidiaries, if any; and
- (d) the total amount of any contingent liabilities or guarantees of the issuer and its subsidiaries, if any.

TURNOVER

13. A statement showing the sales turnover figures or gross trading income of the issuer and its subsidiaries, if any, during the three financial years, immediately preceding the issue of the prospectus which shall contain an explanation of the method used for computation of such turnover or income and a reasonable breakdown between the more important trading activities.

FINANCIAL AND TRADING PROSPECTS

- 14.—(1) General information on the trend of the business of the issuer and its subsidiaries, if any, since the date to which the latest audited accounts of the issuer were made up.

- (2) A statement as to the financial and trading prospects of the issuer and its subsidiaries, if any, for at least the current financial year, together with any material information which may be relevant thereto, including all special trade factors or risks, if any, which are not mentioned elsewhere in the prospectus and which are unlikely to be known or anticipated by the general public, and which could materially affect the profits.
- (3) Where a profit forecast appears in the prospectus, the principal assumptions, including commercial assumptions, upon which it is based, shall be stated and the accounting policies and calculations for the forecast shall be examined and reported on by the reporting accountants and their report shall be set out.

SUFFICIENCY OF WORKING CAPITAL

15. A statement by the directors that, in their opinion, the working capital available to the issuer and its subsidiaries, if any, is sufficient or, if not, how shareholders propose to provide the additional working capital deemed by the directors to be necessary.

MATERIAL ADVERSE CHANGES

16. A statement by the directors of any material adverse change in the financial or trading position of the issuer and its subsidiaries, if any, since the end of the period reported on in the accountants' report.

VALUATION REPORTS

17. In the case of a property investment or development company, or where property interests account for more than thirty per cent of the net asset value of the issuer, a valuation report on the issuer's interests in land or buildings prepared in accordance with the Section C.

LITIGATION

18. Particulars of any litigation or claims of material importance pending or threatened against the issuer or any member of a group to which the issuer belongs.

INFORMATION ABOUT THE ISSUER'S GOVERNANCE

19. The full name, nationality, residential or business address and description of qualifications or area of expertise or responsibility, of every director or proposed director and all members of senior management.

SECRETARY

20. The full name and professional qualification of the secretary of the issuer.

REGISTERED OFFICE

21. The address of the registered office and, if different, the head office.

DIRECTORS' INTERESTS

- 22.—(1) A statement showing the interests, distinguishing between beneficial and non-beneficial interests, of each director of the issuer in the equity or debt securities of the issuer or any associated corporation.
- (2) A statement showing the name, so far as is known to any director of the issuer, of each person, other than a director of the issuer, who is, directly or indirectly, interested in ten per cent or more of the nominal value of any class of share capital, carrying rights to vote in all circumstances at general meetings of the issuer or any member of a group to which the issuer belongs, and the amount of each person's interest in such securities, together with particulars of any options in respect of such capital, or, if there are no such interests, an appropriate negative statement.

DIRECTORS' CONTRACTS

- 23.—(1) Particulars of directors' existing or proposed service contracts with the issuer or any member of a group to which the issuer belongs, excluding contracts expiring or determinable by the employer within one year without payment of compensation.
- (2) The aggregate of the remuneration paid and benefits in kind, granted to the directors of the issuer by the issuer or any member of a group to which the issuer belongs, in respect of the last completed financial year under any description whatsoever.
- (3) An estimate of the aggregate remuneration payable to, and benefits in kind receivable by, the directors or any proposed directors of the issuer by the issuer or any member of a group to which the issuer belongs, in respect of the current financial year under the arrangements in force at the date of the prospectus.

DIRECTORS' INTERESTS IN CONTRACTS

24. Full particulars of any contract or arrangement subsisting at the date of the prospectus in which a director of the issuer is materially interested and which is significant in relation to the business of the issuer and its subsidiaries, if any.

USE OF PROCEEDS

25. In the case of issue of new shares, an estimate of the net proceeds of the issue and details of the intended use of such proceeds.

MATERIAL CONTRACTS

26. The dates of, and parties to, all material contracts, not being contracts entered into in the ordinary course of business, entered into by the issuer or any member of a group to which the issuer belongs, within the two years, immediately preceding the issue of the prospectus together with a summary of the principal contents of such contracts and particulars of any consideration passing to, or from, any member of a group to which the issuer belongs.

GENERAL DISCLOSURE

27. In addition to the specific disclosures required under this section, disclosures shall be made of all material information necessary for an investor to make an informed investment decision and all necessary information to keep the disclosures made from being misleading.

DOCUMENTS FOR INSPECTION

28. Details of a reasonable period of time, being not less than fourteen days, during which, and a place in Malawi at which, the following documents, or copies thereof, where applicable, may be inspected—
- (a) the articles of association of the issuer;
 - (b) each contract disclosed pursuant to paragraph 27 or, in the case of a contract not reduced into writing, a memorandum giving full particulars thereof;
 - (c) all reports, letters or other documents, financial position, valuations and statements by any expert any part of which is extracted or referred to in the prospectus;
 - (d) a written statement signed by the reporting accountants setting out the adjustment made by them in arriving at the figures shown in their report and giving the reasons therefor; and
 - (e) the audited accounts of the issuer or, in the case of a group, the consolidated audited accounts of the issuer and its subsidiaries for each of the two financial years, immediately preceding the issue of the prospectus.

SECTION B—DEBT SECURITIES

GENERAL INFORMATION ABOUT THE ISSUER AND ITS ADVISERS

- 1.—(1) The full name and nationality of the issuer.
- (2) A statement as follows—
- “The directors collectively and individually accept full responsibility for the accuracy of the information contained in this prospectus and confirm, having made all reasonable inquiries, that, to the best of their knowledge and belief, there are no other facts the omission of which, would make any statement herein misleading.”.
- (3) The names and addresses of the issuer’s principal bankers and registrars to the issue.
- (4) The name, address and professional qualifications of the issuer’s auditors.
- (5) The date of incorporation.
- (6) Where the prospectus includes a statement purporting to be made by an expert, a statement—
- (a) specifying the qualifications of such expert and whether such expert has any shareholding in the issuer or any member of a group to which the issuer belongs or the right, whether legally enforceable or not, to subscribe for, or to nominate persons to subscribe for securities in the issuer or any member of a group to which the issuer belongs and, if so, a full description thereof;

- (b) that the expert has given and has not withdrawn his written consent made prior to the issue of the prospectus, with the expert's statement included in the form and context in which it is in fact made; and
- (c) of the date on which the expert's statement was made and whether or not it was made by the expert for incorporation in the prospectus.

STATEMENT THAT APPLICATION HAS BEEN MADE

2. A statement that application has been made to the Registrar for the registration of the securities.

ESTIMATED EXPENSES OF ISSUE

3. The estimated amount of the expenses of the issue and of the application for listing and by whom the same are payable.

ESTIMATED NET PROCEEDS OF ISSUE

4. An estimate of the net proceeds of the issue and a statement as to how such proceeds are intended to be applied.

TERMS AND CONDITIONS OF ISSUE

5. A description of the terms and conditions of the issue containing—
 - (a) the nominal amount of the issue or if this amount is not fixed and a statement to that effect, the nature and number of the debt securities, and the denomination(s);
 - (b) a summary of the rights conferred upon holders and particulars of the security;
 - (c) except, in the case of continuous issues, the issue price, or if different, offer price, and redemption prices and the nominal interests rate and if floating, how is it calculated, if—
 - (i) several interest rates are provided for, an indication of the conditions for changes in the rate;
 - (ii) in any issue a discount is allowed or a premium is payable, a statement describing this; and
 - (iii) any expenses of the issue are specifically charged to subscribers or purchasers, a statement describing this;
 - (d) details of the method of payment of the issue price, or if different, the offer price, including a description of any installment arrangement;
 - (e) details of the arrangements for the amortization or early redemption of the issue, including procedures to be adopted;
 - (f) the names and addresses of the paying agent, and any registrar and transfer agent for the debt securities in Malawi;
 - (g) details of the arrangements for transfer of the securities, if not in bearer form;
 - (h) details of the following time limits—
 - (i) final repayment date and early repayment dates, specifying whether exercisable at the issuer's or the holder's option;

- (ii) the date from which interest accrues and the date on which interest payment fall due;
- (iii) prescription period for claims for payment of interest and repayment of the principal;
- (iv) procedures and time limits for delivery of the debt securities; and
- (v) except in the case of continuous issues, an indication of yield and the method whereby that yield is calculated should also be described in summary form.

LEGAL INFORMATION

6. The following legal information—
- (a) an indication of the resolutions, authorization and approvals by virtue of which debt securities have been, or will be created or issued and of the number of debt securities which have been, or will be created or issued, if predetermined;
 - (b) the nature and scope of the guarantees, sureties, and commitments, if any, intended to ensure that the issue will be duly serviced with regard to both the principal and the interest on the debt securities and an indication of the places where the public may have access to copies of such guarantees, sureties and commitments;
 - (c) details of the trustee or any other representative for the debt securities holders as a whole, the name and function or description and head office of such representative of the debt securities holders, the conditions under which the representative may be replaced together with an indication of where the public may inspect copies of the documents detailing how the representative is to act;
 - (d) a description of any subordination of the issue to other debts of the issuer already incurred or to be incurred;
 - (e) an indication of any legislation under which the debt securities have been created, the governing law and of the competent courts in the event of litigation;
 - (f) details of any restrictions on the free transferability of the debt securities including provisions requiring transfers to be approved; and
 - (g) details of any material guarantees or covenants relating to borrowings.

ALTERATIONS IN CAPITAL

7. Particulars of any alterations in the capital of the issuer or any member of a group to which the issuer belongs, within the two years immediately preceding the issue of the prospectus, including—
- (a) where any such capital has been issued or is proposed to be issued as fully or partly *paid up otherwise than in cash, particulars of the consideration for which the same has been, or is proposed to be issued and in the latter case, the extent to which they are so paid up; and*
 - (b) where any such capital has been issued or is proposed to be issued for cash, particulars of the price and terms upon which the same has been, or is proposed to be issued, details of any discounts or other special terms granted and, if not already fully paid, the dates when any installments are payable with the amount of all calls or installments in arrears.

PARTICULARS OF ANY CAPITAL UNDER OPTION

- 8.—(1) The particulars of any capital of the issuer or any member of a group to which the issuer belongs which is under option, including the consideration for which the option was, or will be granted, and the price and duration of the option, and the name and address of the grantee.
- (2) Where the options have been granted or agreed to be granted, to all the members or debenture holders or to any class thereof, or to employees under a share scheme, it shall be sufficient, so far as the names and addresses are concerned, to record that fact without giving the names and addresses of the grantees.

GENERAL INFORMATION ABOUT ACTIVITIES OF THE ISSUER AND ITS SUBSIDIARIES, IF ANY

- 9.—(1) The general nature of the business of the issuer and its subsidiaries, if any, and, in cases where two or more activities are carried on which are material in terms of profits or losses, assets employed or any other factor, such figures and explanation as are necessary to demonstrate the relative importance of each such activity and details of the main categories of products sold or services performed, and an indication of any significant new products or activities. If the issuer and its subsidiaries, if any, trade outside Malawi, a statement showing a geographical analysis of its trading operations. Where a material proportion of the assets of the issuer and its subsidiaries, if any, are situated outside Malawi, a statement giving the best practicable indication of the amount and situation of such assets and the amount of the assets situated in Malawi.
- (2) Where the issuer is a member of a group, a brief description of that group covering the issuer's position within that group and, if a subsidiary, the names of, and the number of shares held, directly or indirectly, by each holding company of the issuer.
- (3) The particulars of any licenses, concessions, trademarks, patents or other intellectual or industrial property rights which are material in relation to the business of the issuer and its subsidiaries, if any, and, where such factors are of fundamental importance to the business or profitability of the issuer and its subsidiaries, if any, a statement regarding the extent to which the issuer and its subsidiaries, if any, are dependent on such factors.
- (4) The information concerning the policy of the issuer and its subsidiaries, if any, on the research and development of new products and processes over the past three financial years, where significant.
- (5) The particulars of any interruptions in the business of the issuer and its subsidiaries, if any, which may have, or had a significant effect on the financial position in the *last financial year*.
- (6) The number of people employed by the issuer and its subsidiaries, if any, and changes therein in the last financial year, if such changes are material in the context of the issuer and its subsidiaries, if any, with, if possible, a breakdown of persons employed by main categories of activity.

- (7) The particulars, including location, of the principal investments, if any, including such investments as new plant, factories and research and development, being made or planned by the issuer and its subsidiaries, if any.

PARTICULARS OF MATERIAL SUBSIDIARIES

- 10.—(1) With regard to every material subsidiary, particulars of the name, date and country of incorporation, general nature of business, issued capital and the proportion held or intended to be held by the issuer.
- (2) With regard to the issuer and every material subsidiary, particulars of the location of the principal establishments.

FINANCIAL INFORMATION ABOUT THE ISSUER AND ITS SUBSIDIARIES, IF ANY, AND PROSPECTS

11. A consolidated capitalization statement and indebtedness statement for the issuer made up to a recent date acceptable to the Registrar, normally not earlier than three months prior to the issue of the prospectus, giving information on short, medium and long-term debt, distinguishing between actual and contingent liabilities, and including details of any debt securities issued and, if appropriate, the terms and conditions of any conversion, exchange or subscription rights, and shareholders' equity, including an indication of authorized and issued share capital by class, if appropriate, and the amount paid-up, duly adjusted to reflect the issue of the debt securities for which registration is sought, accompanied by particulars of any material changes since that date.
12. A statement showing the sales turnover figures or gross trading income of the issuer and its subsidiaries, if any, during the three financial years immediately preceding the issue of the prospectus and a reasonable breakdown between the more important trading activities.

FINANCIAL AND TRADING PROSPECTS

- 13.—(1) General information on the trend of the business of the issuer and its subsidiaries, if any, since the date to which the latest audited accounts of the issuer were made up.
- (2) A statement as to the financial and trading prospects of the issuer and its subsidiaries, if any, for at least the current financial year, together with any material information which may be relevant thereto, including all special trade factors or risks, if any, which are not mentioned elsewhere in the prospectus and which are unlikely to be known or anticipated by the general public and which could materially affect the profits.
- (3) Where a forecast appears in the prospectus, the principal assumptions, including commercial assumptions, upon which it is based, shall be stated, the accounting policies and calculations for the forecast, shall be examined and reported on, by the reporting accountants and their report shall be set out.
- (4) The particulars of the profits cover for interest payments in respect of fixed income securities.

ACCOUNTANTS' REPORTS

- 14.—(1) A report by the reporting accountants prepared in accordance with the *Third Schedule* hereto. If more than nine months have elapsed since the date to which the latest published audited accounts of the issuer were made up, an interim financial statement covering at least the first six months, shall be included in the prospectus or appended to it. If the interim financial statement is unaudited, this fact shall be stated.
- (2) A statement of whether or not the accountants' report is qualified by the reporting accountants and if so, such qualification shall be produced in full and the reasons for such qualification given.

MATERIAL ADVERSE CHANGES

15. A statement by the directors of any material adverse change in the financial or trading position of the issuer and its subsidiaries, if any, since the end of the period reported on in the accountants' report.

VALUATION REPORTS

16. In the case of a property investment or development company, or where property interests account for more than thirty per cent of the net asset value of the issuer, a valuation report on the issuer's interests in land or buildings prepared in accordance with Section C.

LITIGATION

17. Particulars of any litigation or claims of material importance pending or threatened against the issuer or any member of a group to which the issuer belongs.

INFORMATION ABOUT THE ISSUER'S GOVERNANCE

18. The full name, residential or business address and description of qualifications or area of expertise or responsibility of every director or proposed director.

SECRETARY

19. The full name, and professional qualification, of the secretary of the issuer.

REGISTERED OFFICE

20. The address of the registered office and, if different, the head office.

DIRECTORS' INTERESTS

- 21.—(1) A statement showing the interests, distinguishing between beneficial and non-beneficial interests, of each director of the issuer in the equity or debt securities of the issuer or any associated corporation.

- (2) A statement showing the name, so far as is known to any director of the issuer, of each person, other than a director of the issuer, who is, directly or indirectly, interested in ten per cent or more of the nominal value of any class of share capital carrying rights to vote in all circumstances at general meetings of the issuer or any member of a group to which the issuer belongs and the amount of each person's

interest in such securities, together with particulars of any options in respect of such capital, or, if there are no such interests, an appropriate negative statement.

DIRECTORS' INTERESTS IN CONTRACTS

22. Full particulars of any contract or arrangement subsisting at the date of the prospectus in which a director of the issuer is materially interested and which is significant in relation to the business of the issuer and its subsidiaries, if any.

CONTRACTS PERTAINING TO THE ISSUE OF SECURITIES

23. The dates of, and parties to, all documents pertaining to the issue entered into by the issuer or any member of a group to which the issue belongs, within the two years immediately preceding the issue of the prospectus, together with a summary of the principal contents of such contracts.

AVAILABILITY OF REPORTS

24. Details of where annual and any interim reports are available and how often interim reports are published.

GENERAL DISCLOSURE

25. In addition to the specific disclosures required under this paragraph, disclosures shall be made of all material information necessary for an investor to make an informed investment decision and all necessary information to keep the disclosures made from being misleading.

DOCUMENTS FOR INSPECTION

26. Details of a reasonable period of time, being not less than fourteen days, during which, and a place in Malawi at which, the following documents, or copies thereof, where applicable, may be inspected—
- (a) the articles of association of the issuer;
 - (b) any trust deed, fiscal agency agreement or other document constituting the debt securities;
 - (c) all reports, letters or other documents, financial position, valuations and statements by any expert a part of which is extracted or referred to in the prospectus;
 - (d) a written statement signed by the reporting accountants setting out the adjustments made by them in arriving at the figures shown in their report and giving the reasons thereof; and
 - (e) the audited accounts of the issuer or, in the case of a group, the consolidated audited accounts of the issuer and its subsidiaries for each of the two financial years immediately preceding the issue of the prospectus.

SECTION C—PROPERTY VALUATION REPORTS

PRELIMINARY

1. Valuations of and information on, all the issuer's interests in land or buildings ("properties") are required to be included in a prospectus issued by a new applicant.

BASIC CONTENTS

2. Valuation reports shall contain all material details of the basis of valuation, which shall be prepared in conformity with the standards and guidelines adopted or approved by a recognized body of valuers.
- 3.—(1) A valuation report shall contain a description of each property including—
 - (a) an address sufficient to identify the property, which shall generally include the postal address and such further designation as is registered with the appropriate government authorities in the jurisdiction in which the property is located;
 - (b) a brief description including land or building, approximate area, among others;
 - (c) the existing use, for instance, shops, offices, factories, residential and others;
 - (d) the ground rent;
 - (e) a summary of the terms of tenants' leases or under leases, including repairing obligations, where material;
 - (f) the approximate age of buildings;
 - (g) the terms of tenure;
 - (h) the terms of any intra-group lease granted by a holding company to a subsidiary on property occupied by the group which shall identify the property;
 - (i) the capital value in existing state at the effective date as at which the property was valued;
 - (j) the options or rights of pre-emption concerning or affecting the property; and
 - (k) any other matters which may materially affect the value of the property.
- (2) Where the property is not in the process of being developed, details of rentals of the property including—
 - (a) the existing monthly rental if the property is wholly or partly let together with the amount and a description of any outgoing or disbursements from the rent, and, if materially different, the estimated current monthly market rental obtainable, on the basis that the property was available to let on the effective date as at which the property was valued;
 - (b) a summary of any rent review provisions, where material; and
 - (c) the amount of vacant space, where material.
- (3) Where the property is in the process of being developed, the following additional details, where available—
 - (a) details of development potential and whether architectural plans have been approved, planning consent has been obtained and whether any conditions have been imposed in respect of such approval;
 - (b) any material restrictions on development including building covenants and time limits for completion of the development;
 - (c) existing stage of development;
 - (d) estimated completion date;
 - (e) estimated cost of carrying out the development or where part of the development has already been carried out, the estimated cost of completing the development;

- (f) estimated capital value in existing state at the effective date as at which the property was valued;
 - (g) estimated capital value after completion;
 - (h) any material, special or general conditions affecting the development of the property;
 - (i) any conditions imposed as to construction of roadways, pathways, drainage, sewerage and other facilities or services for public use, where material;
 - (j) any sales arrangements or letting arrangements existing at the effective date as at which the property was valued; and
 - (k) any construction costs incurred up to the effective date as at which the property was valued.
- (4) Where the property is held for future development purposes, the following additional details, where available—
- (a) details of development potential and whether architectural plans have been approved, planning consent has been obtained and whether any conditions have been imposed in respect of such approval;
 - (b) any material special or general conditions affecting the development of the property including building covenants and time limits for completion or the development; and
 - (c) any conditions imposed as to construction of roadways, pathways, drainage, sewerage and other facilities or services for public use, where material.
- (5) A classification of the property according to the purpose for which it is held. The acceptable categories are—
- (a) property held for development;
 - (b) property held for investment;
 - (c) property held for owner occupation; and
 - (d) property held for sale.
- (6) Details of any agreement or proposals as to any proposed transaction regarding the property between the issuer and any other member of a group to which the issuer belongs.
- (7) The name, address, and professional qualification, of the valuer.
- (8) The effective date as at which the property was valued and the date of the valuation.
- (9) Any other information as the Registrar may require.

EFFECTIVE DATE

4. *The effective date as at which the property was valued shall not be more than three months before the date on which the prospectus is issued and if such effective date is not the same as the end of the last period reported on by the reporting accountants, it will be necessary for the prospectus to include a statement reconciling the valuation figure included in the financial position as at the end of that period.*

INDEPENDENCE OF VALUER

5. All valuations of properties shall be prepared by an independent qualified valuer.

SECTION D—DECLARATION BY THE DIRECTORS

A declaration stating that to the best of the issuer's knowledge, information and belief—

- (a) all information required to be included in the prospectus in the form set out in the *Second Schedule* hereto, has been included; and
- (b) that there are no facts bearing on the issuer's application for registration which, in the issuer's opinion, should be disclosed to the Registrar.

THIRD SCHEDULE (para 4 (3)(b) and 7(3))

ACCOUNTANTS' REPORTS

PRELIMINARY

1. This *Schedule* sets out the detailed requirements for accountants' reports on the profits and losses, assets and liabilities of, and other financial information on an issuer which shall be contained in a prospectus.

REPORTING ACCOUNTANTS

2. Accountants' reports shall be prepared by professional accountants who are qualified for appointment as auditors of a company and who are independent of the issuer.

BASIC CONTENTS

3. An accountants' report shall include a three year history of financial results containing—
 - (a) the results of the issuer or, if the issuer is a holding company, the consolidated results of the issuer and its subsidiaries in respect of each of the three financial years, immediately preceding the issue of the prospectus or such shorter period as may be acceptable to the Registrar; and
 - (b) the results of any business or subsidiary acquired, agreed to be acquired, or proposed to be acquired since the date to which the latest audited accounts of the issuer have been made up, on the same basis, where the subsidiary is itself a holding company, as in subparagraph (a), in respect of each of the three financial years immediately preceding the issue of the prospectus or in respect of each of the financial years since commencement of such business or the incorporation of such subsidiary, as the case may be, if this occurred less than three years prior to such issue, or such shorter period as may be acceptable to the Registrar.
4. The report on results under paragraph 3 shall disclose separately the following information—
 - (a) turnover of the issuer;
 - (b) profit or loss, before taxation, including the share of the profit or loss, of associated companies, with separate disclosure of any items included therein, which are exceptional because of size or incidence;
 - (c) taxation on profits both in Malawi and outside, in each case indicating the basis of computation, with separate disclosure of the taxation on its shares of associated companies' profits;
 - (d) profit or loss, attributable to minority interests;

12. Any capital commitments.
13. Any other matters which appear to the reporting accountants to be relevant having regard to the purpose of the accountants' report.
14. In all cases, the accountants' report shall—
 - (a) state whether or not the accounts for the period reported on have been audited and, if so, by whom;
 - (b) state whether or not any audited accounts have been made up since the end of the last financial period reported on;
 - (c) express an opinion as to whether or not the relevant information given, for the purposes of the accountants' report, is a true and fair view of the results for the period reported on and of the assets and liabilities at the end of that period;
 - (d) state that it has been prepared in accordance with international accounting standards;
 - (e) name the reporting accountants; and
 - (f) bear a date.
15. Where the reporting accountant in paragraph 14 was not the auditor for a certain period, the reporting accountant shall make a statement that the information in the accountant's report has been prepared from financial statements on which respective auditors expressed a true and fair view opinion.

DISCLOSURE

16. The information to be disclosed shall conform to international accounting standards.

ACCOUNTING STANDARDS

17. The history of financial results and the statement of assets and liabilities included in the accountants' report shall be drawn up in conformity with international accounting standards.
18. Any significant departure from such accounting standards shall be disclosed and explained and, if it is both relevant and practical, the financial effects of such departure quantified.
19. The relevant accounting standards will be those current in relation to the last financial year reported on and, wherever possible, appropriate adjustments shall be made to show profits for all periods in accordance with such standard.

STATEMENT OF ADJUSTMENTS

- 20.—(1) In preparing the accountants' report, the reporting accountants as are in their opinion appropriate, for the purposes of the accountants' report, state therein that *all adjustments considered necessary have been made, or where appropriate, that no adjustments were considered necessary. Where adjustments are made, a written statement of adjustments, shall be made available for public inspection, and should be signed for by the reporting accountants.*
- (2) The statement of adjustments shall set out, for each of the years reported on, each adjustment made, and be sufficiently detailed, so as to reconcile the figures in the accountants' report with the corresponding figures in the audited accounts and shall give the reasons therefor.

- (e) profit or loss attributable to shareholders; and
- (f) rates of dividend paid or proposed on each class of shares, with particulars of each such class, and amounts absorbed thereby and any waivers of dividend except that the accountants' report need not disclose this information where the accountants' report relates to an issue of debt securities.

ASSETS AND LIABILITIES

5. The assets and liabilities, including contingent liabilities of the issuer, or if the issuer is itself a holding company, the consolidated assets and liabilities of the issuer and its subsidiaries in each case, as at the date to which the latest audited accounts of the issuer have been made up.
6. The assets and liabilities, including contingent liabilities, of any business or subsidiary acquired, agreed to be acquired or proposed to be acquired, since the date to which the latest audited accounts of the issuer have been made up, on the same basis, where the subsidiary is itself a holding company, as in stated in paragraph 5, in each case as at the date to which the latest audited accounts of such business or subsidiary, as the case may be, have been made up.

OTHER MATTERS

7. The earnings per share and the basis of computation in respect of each of the financial years referred to in paragraph 3(a) and (b), except that the accountants' report need not include this information if, in the opinion of the reporting accountants, such information is not meaningful, having regard to the purpose of the accountants' report or, if the accountants' report relates to an issue of debt securities.
8. Transfers to, and from, any reserves arising on—
 - (a) consolidation or acquisition, including the write-off of good will or establishment of a capital reserve;
 - (b) the revaluation of assets; or
 - (c) the translation of accounts denominated in foreign currencies, if those transfers are not reflected in the results of each of the financial years referred to in paragraph 3(a) and (b).
9. A statement of the indebtedness as at the end of the period reported on showing, as regards bank loans and overdrafts and separately, as regards other borrowings of the issuer or of the issuer and its subsidiaries, including any company which will become a subsidiary by reason of any acquisition falling within paragraphs 3(a) and (b), the aggregate amounts repayable—
 - (a) on demand, or within a period not exceeding one year;
 - (b) within a period of more than one year, but not exceeding two years;
 - (c) within a period of more than two years but not exceeding five years; and
 - (d) within a period of more than five years.
10. The details of the principal accounting policies which have been applied in respect of the period reported on.
11. A statement of any significant subsequent events which have occurred to any business or company or within any group covered by the accountants' report since the end of the period reported on or, if there are not such events, a statement of that fact.

12. Any capital commitments.
13. Any other matters which appear to the reporting accountants to be relevant having regard to the purpose of the accountants' report.
14. In all cases, the accountants' report shall—
 - (a) state whether or not the accounts for the period reported on have been audited and, if so, by whom;
 - (b) state whether or not any audited accounts have been made up since the end of the last financial period reported on;
 - (c) express an opinion as to whether or not the relevant information given, for the purposes of the accountants' report, is a true and fair view of the results for the period reported on and of the assets and liabilities at the end of that period;
 - (d) state that it has been prepared in accordance with international accounting standards;
 - (e) name the reporting accountants; and
 - (f) bear a date.
15. Where the reporting accountant in paragraph 14 was not the auditor for a certain period, the reporting accountant shall make a statement that the information in the accountant's report has been prepared from financial statements on which respective auditors expressed a true and fair view opinion.

DISCLOSURE

16. The information to be disclosed shall conform to international accounting standards.

ACCOUNTING STANDARDS

17. The history of financial results and the statement of assets and liabilities included in the accountants' report shall be drawn up in conformity with international accounting standards.
18. Any significant departure from such accounting standards shall be disclosed and explained and, if it is both relevant and practical, the financial effects of such departure quantified.
19. The relevant accounting standards will be those current in relation to the last financial year reported on and, wherever possible, appropriate adjustments shall be made to show profits for all periods in accordance with such standard.

STATEMENT OF ADJUSTMENTS

- 20.—(1) In preparing the accountants' report, the reporting accountants as are in their opinion appropriate, for the purposes of the accountants' report, state therein that all adjustments considered necessary have been made, or where appropriate, that *no adjustments were considered necessary. Where adjustments are made, a written statement of adjustments, shall be made available for public inspection, and should be signed for by the reporting accountants.*
- (2) The statement of adjustments shall set out, for each of the years reported on, each adjustment made, and be sufficiently detailed, so as to reconcile the figures in the accountants' report with the corresponding figures in the audited accounts and shall give the reasons therefor.

OTHER REPORTS

21. Where the reporting accountants refer to reports, confirmations or opinions of valuers, accountants or other experts, the names, addresses and professional qualifications of such other persons or firms shall be stated in the report. In any case, the prospectus shall be required to include a statement that such other persons or firms have given and have not withdrawn their written consent to its issue with the inclusion of such references in the form and context in which they are included.

QUALIFIED REPORTS

22. Where the reporting accountants qualify their accountants' report, they shall refer to all material matters about which they have reservations. All reasons for the qualifications shall be given and its effect quantified if this is both relevant and practical. A qualified accountants' report in respect of a new applicant may be acceptable where the qualification does not relate to a matter of significance to investors but shall not be acceptable where the qualification does relate to a matter of significance to investors.

FOURTH SCHEDULE

(para 6 (2))

REGISTRAR OF FINANCIAL INSTITUTIONS

SECURITIES REGISTRATION CERTIFICATE

A CERTIFICATE OF REGISTRATION is hereby granted to the Security offered by...
offor purposes of
 raising through publicly traded security. The
 certificate is granted subject to the provisions of the Financial Services Act, 2010 and the
 Securities Act, 2010.

GRANTED THIS..... DAY OF 20...

.....
 REGISTRAR OF FINANCIAL INSTITUTIONS

DISCLAIMER:

The Registrar of Financial Institutions has not checked the accuracy of any statements made and does not accept any responsibility for the accuracy of any statements made therefore or for the financial soundness ofor the value of the security offered.

Issued this 1st day of May, 2024.

DR. W. T. BANDA

Registrar of Financial Institutions

GOVERNMENT NOTICE NO. 38

FINANCIAL SERVICES ACT

(CAP 44:05)

FINANCIAL SERVICES (FIT AND PROPER REQUIREMENTS FOR PERSONS ASSOCIATED WITH OWNERSHIP AND MANAGEMENT OF SECURITIES MARKET PLAYERS) DIRECTIVE, 2024

IN EXERCISE of the powers conferred by section 34(2) (a) of the Financial Services Act, I, DR. WILSON TONINGA BANDA, Registrar of Financial Institutions, issue the following Directive—

- Citation 1. This Directive may be cited as the Financial Services (Fit and Proper Requirements for Persons Associated with Ownership and Management of Securities Market Players) Directive, 2024.
- Interpretation 2. In this Directive, unless the context otherwise requires—
- “audit committee” means a permanent committee of the board of directors of a securities market player prescribed under paragraph 8;
- “credit facility” has the meaning ascribed to that term under the Banking Act;
- “securities market player” includes an exchange, operator of a collective investment scheme, a broker, dealer, portfolio manager, transfer secretary, investment adviser, and securities market intermediary; and
- “senior management official” means—
- (a) an executive officer;
 - (b) a head of department or function; and
 - (c) an official who reports directly to—
 - (i) the board of directors, a committee of the board of directors or an executive officer; or
 - (ii) a branch manager declared by the Registrar to be a senior management official.
- Objective 3. The objective of this Directive is to prescribe fit and proper requirements for shareholders, directors and management of securities market players.
- Approval of shareholders 4.—(1) A securities market player that is not a public company shall seek prior approval of the Registrar in respect of a—
- (a) new shareholder;
 - (b) shareholder who may become a controlling party; or
 - (c) change in the shareholding structure.
- (2) A securities market player that is a public company shall seek prior approval of the Registrar in respect of—
- (a) a new shareholder who may become a controlling party;

(b) an acquisition that increases the existing shareholding which may result in the new shareholder becoming a controlling party as a result of the acquisition; and

(c) a change in shareholding structure that results in one of the shareholders ceasing to be a controlling party.

(3) A securities market player shall submit an application for approval in respect of subparagraphs (1) and (2) to the Registrar, in Form A set out in the *Schedule*.

(4) The Registrar may direct an existing shareholder or a proposed shareholder to—

(a) submit additional information as the Registrar may determine appropriate; or

(b) appear before the Registrar for examination.

5.—(1) A shareholder in a securities market player shall satisfy the fit and proper requirements prescribed under paragraph 13.

Shareholders to satisfy fit and proper requirements

(2) The Registrar shall review the fitness and propriety of a shareholder or controlling party on a regular basis.

(3) The Registrar shall, where the assessment under subparagraph (2) shows that the shareholder or controlling party is not financially sound, direct the shareholder or controlling party to implement appropriate remedial measures to restore financial soundness within a prescribed period.

6. The Registrar shall, in determining whether a prospective controlling party satisfies the fit and proper requirements prescribed under paragraph 13, conduct a due diligence of the prospective controlling party.

Due diligence

7.—(1) A person shall not serve as a director or senior management official of a securities market player unless—

Appointment of directors and senior management officials

(a) he satisfies the fit and proper requirements prescribed under paragraph 13; and

(b) his appointment is approved by the Registrar.

(2) A securities market player shall submit an application for approval of appointment of a director or senior management official to the Registrar, in Form B or Form C set out in the *Schedule*, respectively.

(3) A securities market player shall not appoint more than one foreign national as a senior management official without approval of the Registrar.

(4) The Registrar shall not approve the appointment of a foreign national as a senior management official of a securities market player unless the securities market player has demonstrated that it has failed to identify a person with similar skills from the local market.

(5) A foreign national shall serve as a senior management official of a securities market player for a period not exceeding three years.

(6) A securities market player who intends to appoint a foreign national as a senior management official shall comply with all legal requirements for recruitment of a foreign national.

Verification of educational qualifications

8. The Registrar shall verify the credentials and authenticity of academic and professional qualifications submitted by a director, executive officer or senior management official in support of an application under paragraph 7(2).

Board responsibility

9.—(1) The board of directors of a securities market player shall ensure that the securities market player has—

- (a) an audit committee;
- (b) a designated second in command at a level of senior management; and
- (c) an independent risk management and compliance function.

(2) The audit committee prescribed under sub-paragraph (1)(a) shall comprise at least three members who shall be independent directors.

(3) Where the securities market player is not in a position to have an independent risk management and compliance function, the Registrar may approve an alternative arrangement for performance of the function.

Restrictions on directors

10.—(1) The Chairperson of a board of directors of a securities market player shall be an independent director.

(2) A director of a securities market player shall not serve as a director of another securities market player except where the other securities market player is part of the securities market player group or its holding company in which he is already a director.

(3) An employee in the public service shall not serve as a director of a securities market player or as an *ex-officio* member of a board of a securities market player except where the Government has direct shareholding interest in the securities market player.

(4) Subject to subparagraph 3, an employee in the public service shall serve as a director or *ex-officio* member of a board of one securities market player at a time.

(5) An employee in the public service shall not serve as a chairperson of a board of a securities market player.

(6) A person who sits on a board of an institution that is a shareholder of a securities market player shall not serve as a director on a board of another securities market player.

Qualifications and requirements for accounting, finance and audit functions

11.—(1) A head of the accounting or finance functions of a securities market player shall be—

- (a) an accredited member of a professional body in the accounting profession; and
- (b) registered with the Institute of Chartered Accountants in Malawi.

(2) A head of the internal audit function of a securities market player shall be a registered member of the Institute of Internal Auditors in Malawi.

(3) The Registrar shall not approve a person as head of the accounting or finance function of a securities market player, or a head of the internal audit function of a securities market player, as a fit and proper person, unless the securities market player provides written attestation from the Institute of Chartered Accountants in Malawi or the Institute of Internal Auditors in Malawi that the person satisfies the requirements of subparagraphs (1) and (2).

12.—(1) A compliance officer of a securities market player shall be accountable to a board committee responsible for risk management for the securities market player. Compliance officer

(2) An internal auditor of a securities market player shall not qualify as a compliance officer.

(3) A compliance officer shall possess the relevant qualification and experience.

13.—(1) A person satisfies the fit and proper requirement if the person has relevant qualifications or experience in banking, economics, business administration, finance, law, risk management, accounting or any other relevant field as determined by the Registrar. Fit and proper criteria

(2) A person does not satisfy, or ceases to satisfy, the fit and proper requirement if the person—

(a) is declared insolvent or adjudged bankrupt by a competent court of law and has not been discharged from the insolvency or bankruptcy;

(b) is convicted of a felony, including corruption, fraud, forgery, perjury, money laundering, or any other material breach of a financial service law;

(c) is removed as a shareholder, director, senior management official or trustee in accordance with a financial services law in Malawi or any other country;

(d) is directed to disinvest or his investment is wound up or closed by the Registrar or any other competent supervisory authority;

(e) is disqualified or suspended from practicing any profession on the ground of professional misconduct;

(f) holds or has held, in Malawi or a foreign country, the position of—

(i) head of state or deputy head of state;

(ii) cabinet minister;

(iii) member of parliament;

(iv) councillor; or

(v) senior official in a local or international organization which is in a position to influence Government policy or decisions;

(g) is a child or spouse of a person listed in subparagraph 2(f);

(h) is an employee of another securities market player, unless he relinquishes his position in the other securities market player before the appointment;

(i) is a director, or employee of the Reserve Bank of Malawi;

(j) is a minor;

(k) is a member of a governing body of a political party, any organ of a political party or organization whose objectives or activities are political in nature;

Provided that the person may be eligible to be appointed or serve as a shareholder, director or senior management official of a securities market player upon expiry of seven years from the time the person ceases to be a member of a governing body of a political party, organ of a political party or organization whose objectives or activities are political in nature;

(l) is not able to perform daily functions of the office by reason of physical or mental infirmity;

(m) is responsible for a loss suffered by a licensed institution in Malawi or in another country;

(n) has a bad professional reputation or his professional background does not demonstrate integrity;

(o) has been a controlling party, shareholder, director, executive officer or senior management official of a securities market player or other financial institution—

(i) that is or was subject to formal remedial measures for operating in an unlawful or unsound manner;

(ii) for which a statutory manager or liquidator has been appointed;

(iii) whose licence was revoked; or

(iv) which has been wound-up;

(p) in the case of a director, has a non performing credit facility or a party related to him has a non performing credit facility;

(q) in the case of an executive officer and senior management official, is not resident in Malawi, unless his absence from Malawi is approved in writing by the Registrar;

(r) in the case of a financial institution in Malawi or any other country, the institution has—

(i) failed to take reasonable steps to secure compliance with the Act or any other financial services law;

(ii) been convicted of an offence under the Financial Crimes Act or any law similar to the Financial Crimes Act in a foreign country;

(iii) failed to take reasonable steps to ensure the accuracy and completeness of information submitted to the Registrar or competent supervisory authority in the other country;

(iv) failed or delayed to provide any information to the Registrar or competent supervisory authority in the other country in compliance with a statutory obligation or on demand by the Registrar or competent supervisory authority; or

(v) obstructed or endeavored to obstruct, an inspection by an officer or any other person appointed by the Registrar or competent supervisory authority in the other country.

(s) has been responsible for failure to disclose material interest in a credit or any other transaction;

(t) has supplied false or misleading information to the Registrar;

(u) was dismissed from another securities market player or licensed institution on ground of misconduct; and

(v) is determined by the Registrar to be ineligible based on any assessment conducted by the Registrar.

(3) For purposes of this paragraph—

“competent supervisory authority” means the competent regulatory authority that supervises institutions engaged in securities marketing in the country where the head office of a foreign firm is located; and

“member of the immediate family” means parent, spouse, child and spouse of a child.

14. A securities market player shall, from time to time, assess the fitness and probity of its directors and senior management officials.

Assessment
of directors

15.—(1) A securities market player shall—

(a) within ten days of terminating the appointment of a director; or

(b) immediately, after suspending or terminating the appointment of an executive officer,

notify the termination of appointment or suspension to the Registrar in writing.

Notification
of suspension
or termination
of
appointment
of directors or
executive
officers

(2) A notification submitted under subparagraph (1) shall contain reasons for the termination or suspension and, in the case of termination, provide a timeline for replacing the director or executive officer.

16.—(1) A person who fails to comply with any requirement under this Directive shall be liable to a monetary penalty of—

Penalties

(a) in the case of a legal person, K 50,000,000; and

(b) in the case of a natural person, a penalty of K10,000,000.

(2) A person ordered by the Registrar to pay a monetary penalty shall pay the penalty, through an electronic bank transfer to the Reserve Bank of Malawi, within five working days of receiving the order.

(3) In addition to the monetary penalty imposed under subparagraph (1), the Registrar may impose other administrative penalties as provided for under the Act and the Securities Act.

Cap. 46:06

17. The Financial Services (Fit and Proper Requirements for Persons Associated with Ownership and Management of Securities Market Players) Directive, 2015 is hereby revoked.

Revocation of
GN/21/2015

SCHEDULE

(para.4(3))

FORM A

APPLICATION FOR APPROVAL AS A FIT AND PROPER SHAREHOLDER
 FIT AND PROPER QUESTIONNAIRE FOR SHAREHOLDER

1. Full Name:
2. In case of a body corporate, date of incorporation and registration number:

NOTE: Attach certified copy of certificate of incorporation and memorandum and articles of association

3. Postal Address:.....
4. Contact Number:.....
5. Physical Address:.....
6. Qualifications, if natural person—

(i) Minimum Academic Qualification.....

.....

(ii) Highest Academic Qualification.....

.....

(iii) Other Qualifications.....

.....

7. Amount, type and percentage of shareholding, if any, in any financial institution:

<i>Name of financial institution</i>	<i>Type of Shareholding</i>	<i>Amount of Shareholding</i>	<i>Percentage of Shareholding</i>

8. Describe your source of income and attach latest audited financial statements for a body corporate or latest certified bank statements for an individual shareholder.

9. Describe how you will be able to provide on-going capital support to the institution once approved as a shareholder.

10. Shareholding in other companies:

Company's name	Date of incorporation	Amount of shareholding	Percentage of shareholding	Past shareholding		Remarks
				A	B	

A. Refers to date of closure or surrender of shares

B. Refers to reasons for closure or surrender

11. Employment/Business record (Please include positions you are holding, or may have held at any financial institution anywhere in the world)

Name of Director or Officer	Name of employer	Positions held and dates	Responsibilities (where applicable)	Reasons for leaving

12. Provide a name (or names) of your banker and for the last five (5) years.

PERIOD	BANKER AND ACCOUNT DETAILS

13. Borrowings:

(a) If yes, provide the following details for each of the loan facilities—

Loan Facility

- (i) Name of lending institution:.....
- (ii) Type of facility:.....
- (iii) Date of offer:.....
- (iv) Terms of offer:.....
- (v) Security offered:.....
- (vi) Value of security:.....
- (vii) Current outstanding balance:.....

(b) Have you ever defaulted on a loan facility? Please provide your latest credit reference report from a licensed credit reference bureau:

14. Have you been subject to a direction, administrative penalty or any enforcement action by the Registrar of Financial Institutions or any regulatory body whether in Malawi or outside Malawi?

(If yes, please provide details)

.....

15. Have you or any entity with which you are associated with as Director, Shareholder or Manager or ever held or applied for a licence or equivalent authorisation to carry on any business activity in any country?

(a) If yes, provide details:

.....

(b) If any such application was rejected or withdrawn after it had been issued, or any authorisation revoked, give particulars:

16. Has judgment involving finding of fraud, dishonesty, criminal conduct, misrepresentation, breach of contract, breach of fiduciary duty or professional negligence been given against you or are there any proceedings now pending that may lead to such a judgment or finding?

If yes, provide details:

.....

17. Has any body corporate, partnership, or unincorporated institution with which you were associated as a controlling party shareholder, director, executive officer or senior management official, in Malawi or elsewhere, been wound-up, made subject to an administration order, otherwise made any compromise or arrangement with its creditors, or ceased trading either while you were associated with it or within one year after you ceased to be associated with it or has anything analogous to any of these events occurred under the laws of any other jurisdiction?

If yes, please provide details:

.....

18. Have you contravened any written law designed for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of financial services or the management of companies or against financial loss due to the conduct of discharged or undischarged bankrupts?

If yes, provide details:

.....

19. Has you ever failed to satisfy within one year a judgment of debt under a court order in Malawi or elsewhere?

If yes, provide details:

.....

20. Have you ever been adjudged bankrupt by a court in Malawi or elsewhere? Has a bankruptcy petition ever been served on you? Have you ever made any compromise arrangement or otherwise failed to pay creditors in full?

If yes, provide details:

.....

21. Have you ever been censured, prosecuted, warned as to conduct, disciplined, disqualified or suspended from practicing a profession, removed from office, publicly criticized, or made subject to a court order at the instigation of any governmental body appointed under any enactment, by a professional organization, or the substantial equivalent thereof in Malawi or elsewhere?

If yes, provide details:

.....

22. Indicate three individuals of good standing who would be able to provide a reference on your personal integrity. The referees must not be related to you and must have known you for at least three years.

	<i>Referee 1</i>	<i>Referee 2</i>	<i>Referee 3</i>
Name			
Address			
Occupation			
Position held			
Contact details: phone numbers and email address			
State for how long has each referee known you			

DECLARATION:

I, the undersigned, being proposed shareholder of the Applicant, declare that to the best of my knowledge and belief, the information given in this form and the supporting documentation submitted together with this form are true, correct, complete and made in good faith:

SIGNED:

FULL NAMES:.....

SIGNATURE:..... DATE:.....

FORM B

(para.7(2))

APPLICATION FOR APPROVAL FOR APPOINTMENT AS DIRECTOR

FIT AND PROPER QUESTIONNAIRE FOR A DIRECTOR

QUESTION	RESPONSE
1. Full Name of Nominee	
2. Date of Birth & Gender	
3. Nationality & National ID Number	
4. Postal Address	
5. Telephone Number	
6. Email Address	
7. Physical Address	
8. Date of Appointment	
9. Minimum Academic Qualification	
10. Highest Academic/Professional Qualification	
11. Other qualifications	
12. Work Experiences (where applicable include full details of employer, positions held and years of service)	
13. Briefly summarise your experience in the Financial Sector	
14. Information on other directorships held by the Nominee	
15. Information on business interests of the Nominee	
16. Have you: (a) been subject to a direction, administrative penalty or any enforcement action by the Registrar of Financial Institutions or any regulatory body? (If yes, please provide details) (b) been convicted of any offence, or are there any proceedings now pending which may lead to a conviction for any offence involving fraud or dishonesty? (If so, please provide details)	

QUESTION	RESPONSE
<p>(c) been adjudged by a court of law to have committed fraud or any act of dishonesty, or criminal conduct, misrepresentation, breach of contract, bankruptcy, breach of fiduciary duty or professional negligence given against it, in any civil proceedings, or are there any proceedings now pending that may lead to such a judgement or finding? (If so, please provide details)</p>	
<p>(d) contravened any written law designed for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of financial services or the management of companies or against financial loss due to the conduct of discharged or undischarged bankrupts? (if so, please provide details)</p>	
<p>(e) ever been or is now subject to an investigation in Malawi or elsewhere, by or at the instigation of any governmental department or agency, professional association, or other regulatory body? (If so, provide details)</p>	
<p>(f) any details that the Registrar of Financial Institutions should know</p>	

17. **Borrowings:**

18. If yes, provide the following details for each of the loan facility:

Name of lending institution.....

Type of facility.....

Date of offer.....

Terms of offer.....
 Security offered.....
 Value of security.....
 Current outstanding balance.....

19. Have you ever defaulted on a loan facility? Please provide your latest credit reference report from a licensed credit reference bureau.....

DECLARATION:

I, the undersigned, being proposed Director of the Applicant, declare that to the best of my knowledge and belief, the information given in this form and the supporting documentation submitted together with this form are true, correct, complete and made in good faith:

SIGNED:

FULL NAMES:.....

SIGNATURE:..... DATE:.....

FORM C

(para. 7(2))

APPLICATION FOR APPROVAL FOR SENIOR MANAGEMENT OFFICIAL
 FIT AND PROPER QUESTIONNAIRE FOR OFFICIAL SENIOR MANAGEMENT

(Where space provided is not enough, please provide the extra information on additional sheets)

1. Full Name of Nominee:.....

2. Proposed position:.....

3. Postal Address:.....

4. Contact Numbers:.....

5. Physical Address:.....

6. Qualifications—

(i) Minimum Academic Qualification (include date obtained and institution).....
 :.....

(ii) Highest Academic Qualification (include date obtained and institution).....
 :.....

(iii) Other Qualifications (include date obtained and institution).....
 :.....

7. Amount, type and percentage of shareholding, if any, in any company:

<i>Name</i>	<i>Type of shareholding</i>	<i>Amount of shareholding</i>	<i>Percentage of shareholding</i>

8. Do you hold any directorship in any company? If yes, please provide details.

.....

9. Employment record (Please include positions you are holding, or may have held with any employer anywhere in the world)

<i>Name of Employer</i>	<i>Positions held and dates</i>	<i>Responsibilities (where applicable)</i>	<i>Reasons for Leaving</i>

10. Provide a name (or names) of your banker and your bank account details for the last five (5) years.

<i>YEAR</i>	<i>BANKER</i>	<i>BANK ACCOUNT DETAILS</i>

11. Are you an accredited member of any professional body in Malawi such as Institute of Chartered Accountants in Malawi (ICAM), Institute of Internal Auditors (IIA), Economics Association of Malawi (ECAMA) or Malawi Law Society (MLS)?.....

If yes, provide details:

.....

12. Have you or any entity with which you are associated with as Director, Shareholder or senior management official ever held or applied for a licence or equivalent authorisation to carry on any business activity in any country?

If yes, provide details:

.....

12. If any such application was rejected or withdrawn after it had been issued, or any authorisation revoked, give particulars:
-
13. Has judgment involving finding of fraud, dishonesty, violence, misrepresentation breach of contract, breach of fiduciary duty or professional negligence given against you or are there any proceedings now pending that may lead to such a judgment or finding?
If yes, provide details:
-
14. Has any body corporate, partnership, or unincorporated institution with which you were associated with as a controlling party shareholder, director, or senior management official, in Malawi or elsewhere, been wound-up, made subject to an administration order, otherwise made any compromise or arrangement with its creditors, or ceased trading either while you were associated with it or within one (1) year after you ceased to be associated with it or has anything analogous to any of these events occurred under the laws of any other jurisdiction?
If yes, provide details:
-
15. Have you contravened any written law designed for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of financial services or the management of companies or against financial loss due to the conduct of discharged or undischarged bankrupts?
If yes, provide details:
-
16. Have you ever failed to satisfy within one (1) year a judgment of debt under a court order in Malawi or elsewhere?
If yes, provide details:
-
17. Have you ever been adjudged bankrupt by a court in Malawi or elsewhere? Has a bankruptcy petition ever been served on you? Have you made any compromise arrangement or otherwise failed to satisfy creditors in full?
If yes, provide details:
-
18. Have you been censured, prosecuted, warned as to conduct, disciplined, disqualified or suspended from practicing a profession, removed from office, publicly criticized, or made subject to a court order at the instigation of any governmental body appointed under any enactment, by a professional organization, or the substantial equivalent thereof in Malawi or elsewhere?
If yes, provide details:
-
19. Indicate three (3) individuals of good standing who would be able to provide a reference on your personal and professional integrity. The referees must not be related to you and must have known you for at least three (3) years.

	<i>Referee 1</i>	<i>Referee 2</i>	<i>Referee 3</i>
Name			
Address			
Occupation			
Contact details: phone numbers and email address			
State for how long has each referee known you			

20. Please attach copies of employment contracts, where applicable.

21. Did the Board approve your appointment?

If yes, please attach a copy of the Board resolution approving your appointment.

.....

22. Please attach a copy of certified minutes of the board of directors demonstrating that they have thoroughly evaluated the proposed nominee according to the "Fit and Proper" requirements of the Registrar of Financial Institutions and deem the applicant to be "fit and proper".

DECLARATION:

I, the undersigned, being proposed as.....
 declare that to the best of my knowledge and belief, the information given in this form and the supporting documentation submitted together with this form are true, correct complete and made in good faith:

SIGNED:

FULL NAMES:.....

SIGNATURE:..... DATE:.....

Issued this 1st day of May, 2024.

(REF. NO. FIN/PFSPD/02/12)

DR. W. T. BANDA
Registrar of Financial Institutions