



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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WINDHOEK - 24 September 1999

No. 2190

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General Notice

BANK OF NAMIBIA

No. 280 1999

DETERMINATIONS UNDER THE BANKING INSTITUTIONS ACT, 1998 (ACT NO. 2 OF 1998)

In my capacity as Governor of the Bank of Namibia (The Bank) and under the powers vested in the Bank by virtue of section 71(3) of the Banking Institutions Act, 1998 (Act No. 2 of 1998), read in conjunction with section 43(6) of the aforementioned Act, I hereby issue Determinations on the Appointment, Duties and Responsibilities of Independent Auditors (BID-10), which Determinations shall become effective on 24 September 1999.

T K ALWEENDO
GOVERNOR

Windhoek, 27 August 1999

BID-10

DETERMINATIONS ON THE APPOINTMENT, DUTIES AND RESPONSIBILITIES OF AN INDEPENDENT AUDITOR OF A BANKING INSTITUTION**Overview**

A stable banking system requires a sound system of corporate governance of which an independent audit is one of the cornerstones. An independent audit provides an independent and objective check of the statutory financial statements which have been prepared and presented by the directors. In its effort to efficiently utilise the available resources, the Bank intends to rely on the independent auditors of banking institutions and therefore places additional responsibilities on them. Therefore, a banking institution is required to be served only by professionally competent persons as its independent auditors. These determinations set out the rules and criteria relating to the appointment, duties and responsibilities of an independent auditor of a banking institution.

The provisions regarding the appointment, duties and responsibilities of an independent auditor of a banking institution set out in these Determinations are in addition to the provisions of sections 43,44 and 45 of the Banking Institutions Act, 1998 (Act No. 2 of 1998) and paragraph 7 of the Determinations on the Classification of Loans and the Suspension of Interest on Non-performing Loans and the Provision for Bad and Doubtful Debts (BID-2) issued under the Banking Institutions Act, 1998 (Act No. 2 of 1998).

1. Duties and Responsibilities of the Independent Auditor

The independent auditor of a banking institution shall:

- 1.1 Whenever he/she furnishes the Public Accountants and Auditors' Board with a report in terms of section 26(3) of the Public Accountants and Auditors' Act, No. 51 of 1951, as amended, at the same time furnish the Bank with copies of such a report and of any acknowledgement of receipt thereof and reply thereto and such other particulars as he/she may deem fit.
- 1.2 Pursuant to section 49(5) of the Act, the independent auditor shall be required to issue a report on the following returns and any other information submitted by a banking institution to the Bank in terms of section 49 of the Act:
 - (a) the Balance Sheet - BIR 100;
 - (b) the Off-Balance Sheet - BIR 110;
 - (c) the Income Statement - BIR 200;
 - (d) the Return on Credit Risk - BIR 500;
 - (e) the Return on Minimum Liquid Assets - Annexure A, BID 6;
 - (f) the Return on Minimum Reserve Balances - MRR1-2;
 - (g) the Return on Large Exposures - Annexure A, BID 4;
 - (h) the Consolidated Return on Risk-Weighted Capital Ratio Form - RWCR 1-3(b);
 - (i) the Return on Currency Risk - BIR 600; and
 - (j) any other return introduced and specified from time to time by the Bank through the determinations and/or circulars.
- 1.3 In respect of the following reports which the independent auditor is required to issue under paragraph 1.2:
 - (a) the independent auditor shall report on the banking institution's financial position and the results of its operations as reflected in the returns specified below, which had been submitted as at the financial year-end of the reporting banking institution:

- the Balance Sheet - BIR 100 and the Off-Balance Sheet - BIR 110

- the Income Statement - BIR 200
 - the Consolidated Return on Risk-Weighted Capital Ratio Form-RWCR1-3(b)
 - any other return specified from time to time by the Bank through the determinations and/or circulars.
- (b) In addition to paragraph 1.3(a) above, the other returns specified under paragraph 1.2 above, submitted to the Bank at year-end.
- (c) All returns, specified under paragraph 1.2 above, submitted to the Bank other than at year-end will be reported on as follows:
- for returns and information rendered on a monthly basis, any one return within each calendar quarter; and
 - for returns and information rendered on a quarterly basis, any one return for any other calendar quarter; and
 - for returns and information rendered on a bi-annual and annual basis, all the returns submitted.
- (d) In complying with paragraphs 1.3(a), 1.3(b) and 1.3(c) above, the independent auditor shall report whether in his opinion, in all material respects the information contained in the returns submitted at year-end and other than at year-end:
- reasonably reflects the information contained in the statutory financial statements or management accounts presented to the board of directors, whichever is applicable;
 - reflects that in the management accounts;
 - is complete in so far as all relevant information contained in the accounting and other records at the reporting date has been extracted therefrom and recorded in the returns;
 - is accurate in so far as it correctly reflects information contained in, and extracted from, the accounting and other records at the reporting date; and
 - is prepared using the same accounting policies as those applied in the management accounts and the statutory financial statements.
 - is in accordance with the rules and guidelines set out in the applicable Determinations issued under the Banking Institutions Act, 1998 (Act No. 2 of 1998).
- 1.4 In the event that an independent auditor discovers errors in the returns (information), they shall be required to ensure that such is revised by the banking institution and resubmitted to the Bank. The independent auditor shall also highlight this amendment in their report and the fact that other returns submitted to the Bank may contain similar errors.
- 1.5 The reports shall be issued to the Governor of the Bank of Namibia within three months of the banking institution's year-end and shall conform with the format recommended from time to time by the Institute of Chartered Accountants of Namibia and approved by the Bank.

2. Appointment of an Independent Auditor of a Banking Institution

A banking institution shall ensure that only "fit and proper" persons are appointed and/or continue to act as an independent auditor. In this regard, the following criteria shall apply:

- 2.1 No person shall be eligible for the appointment or to act as an independent auditor if such a person:
 - (i) is not registered to act as auditor under the Public Accountants and Auditors' Act, No. 51 of 1951, as amended;
 - (ii) conducts himself/ herself in an improper manner. It may be construed that a person has conducted himself/ herself in an improper manner if such a person:-
 - contravenes or fails to comply with the provisions of section 282 of the Companies Act (Act No. 61 of 1973) with which it is his/her duty to comply;
 - contravenes or fails to comply with the provisions of section 45 of the Banking Institutions Act and these determinations, with which it is his duty to comply.
- 2.2 The auditor shall be independent from the banking institution. For guidance on independence refer to Annexure A.

Audit staff with managerial responsibility shall take cognisance of the provisions of sections 36 and 37 of the Banking Institutions Act.
- 2.3 The independent auditor shall be professionally competent to effectively perform the audit, given its complexity, with due professional care. For guidance on professional competence refer to Annexure A.
- 2.4 The independent auditor shall observe the provisions of the Code of Professional Conduct published by the Public Accountants' and Auditors' Board.
- 2.5 The criteria set out in these determinations should not be regarded as an automatic qualification, disqualification or as being exhaustive. The Bank retains the absolute discretion to approve or disapprove an application for the approval of the appointment of an independent auditor when in its opinion, circumstances so warrant.

3. Appointment and approval process of an independent auditor

- 3.1 The firm appointed as an independent auditor shall nominate a specific partner as partner responsible for the audit of that banking institution. More than one firm of joint auditors may also be appointed and this process applies to both independent auditors appointed as such.
- 3.2 Responsible partner means the auditor responsible for the effective functioning of all the phases of the audit, for exercising his/her professional judgement based on the results of the audit procedures, and for expressing an opinion on the fair presentation of the statutory financial statements of the banking institution.
- 3.3 The application to be submitted for the approval of the independent auditor and responsible partner by the banking institution should be signed by the chairperson of the board of directors, on the form annexed hereto and marked Annexure C. The auditor shall submit a relevant application form issued by

the Bank, duly completed by the responsible partner, providing information on the firm, as well as on himself/herself to the Bank. The application form to be used is in two parts and is annexed hereto and marked Annexure B. Part A relates to information regarding the firm, and part B relates to information regarding the responsible partner.

3.4 In view of changes in circumstances that may occur after the approval of the appointment by the Bank, the following provisions must be observed by a banking institution and/or its independent auditor:

- If the responsible partner is no longer with the firm, or is rotated from the audit engagement, part B of the application form providing details of the new responsible partner should be submitted for the approval of the Bank. The approval of the appointment of the firm will be subject to review by the Bank if no new responsible partner is appointed within 90 days, or a shorter period at the discretion of the Bank, if circumstances require it.
- If the firm resigns from the audit, this fact, and the reasons for the resignation, must be advised to the Bank by the independent auditor. The banking institution shall then seek approval for the appointment of a new independent auditor. The same applies if the banking institution decides to change independent auditors. A new application form consisting of both parts A and part B needs to be completed and submitted to the Bank.
- In a case of a merger of audit firms, since a new entity is born, the same process applies as in the case of a new appointment and both parts A and B of the application form should be completed.

3.5 The appointment and approval process of an independent auditor applies to and should be followed in the case of group appointments of independent auditors where a banking group represented in Namibia makes a worldwide appointment of an auditor.

4. Signing of reports by joint auditors

In the case of a joint audit, all audit firms involved in the audit of a banking institution shall be required to jointly sign all reports and letters required by the Banking Institutions Act and the related determinations and/or circulars.

ANNEXURE A

BID-10

GUIDELINES ON INDEPENDENCE AND PROFESSIONAL COMPETENCE OF AN INDEPENDENT AUDITOR

1. Independent

1.1 Any person, i.e. a partner and their firm, when undertaking a reporting assignment as an independent auditor for a banking institution, should be independent in fact and appearance.

Independence is a quality which enables the auditor to apply unbiased judgement and objective considerations to established facts in arriving at an opinion or decision.

1.2 To be recognised as independent, the auditor must be free from any material

obligation to, or material interest in a banking institution, its management and/or its shareholders.

For the purposes of these determinations:

- a material obligation means an obligation of an auditor which, in aggregate with co-partners in the firm, their spouses and dependants, is more than five percent of the capital funds of the banking institution. For the purposes of this clause, capital funds shall have the same definition as that used for capital adequacy as determined in terms of sections 28 and 29 of the Banking Institutions Act, No. 2 of 1998.
- a material interest means an interest where an auditor, in aggregate with co-partners in the firm, their spouses and dependants, directly or indirectly holds, controls or is entitled to exercise the voting rights in more than five percent of any class of voting shares of a banking institution.

Generally, a person should be independent of a banking institution and all its associates and affiliates.

- 1.3 The dependence of the firm on a banking institution could raise doubts as to the independence of the firm.

The size of the firm should be sufficient relative to the banking institution, so that the receipt of recurring fees from the banking institution, does not represent a large proportion of the total gross fees of the firm as a whole. The various regulators have indicated that 10% or more of the total gross fees would normally be regarded as a large proportion.

The auditor should reduce audit fees with caution as this may invariably undermine the effectiveness of the auditor's performance, particularly if it results in the reduction of the extent and quality of work done by him/her.

- 1.4 Following are paragraphs which indicate some situations which, because of the actual or apparent lack of independence, would give a reasonable observer grounds for doubting the independent auditor's independence:

Fiduciary or financial involvement with, or in the affairs of, a banking institution

Financial involvement with a banking institution on whose affairs a person has a responsibility to report, may affect his objectivity and may lead an observer to conclude that objectivity has been impaired. Such an involvement can arise in a number of ways, such as:

- a) a direct or indirect financial interest in the banking institution;
- b) by a fiduciary interest in the banking institution;
- c) loans to or from a banking institution or any officer, director or principal shareholder of a banking institution;
- d) by holding a financial interest in a joint venture with a banking institution or employee(s) of a banking institution;
- e) by having a financial interest in a non-banking institution that has an investor or investee relationship with a banking institution.

The following, however, would not ordinarily be considered to impair an auditor's independence:

- a) Holding of securities in a banking institution in which the securities are widely held, provided that the holding is not material either in relation to the total number of securities issued by the banking institution or in relation to the assets of the auditor, or his professional staff, or his spouse or dependents.
- b) Making deposits with, or accepting loans from banking institutions on the same terms as are available to the general public.
- c) Making indirect investments in a banking institution through the holding of units in mutual funds, insurance policies or retirement funding investments.
- d) Indebtedness arising out of normal trading transactions on the same terms as are available to the general public.

Appointments in banking institutions

- a) When a person is or was, within the period under current review or immediately preceding an assignment:
 - a member of the board, an officer or an employee of a banking institution, or
 - a partner of, or in the employment of, a member of the board or an officer or an employee of a banking institution;he would be regarded as having an interest that could detract from independence when reporting on that banking institution.
- b) A person in a situation as in (a) above should not be appointed as auditor of the banking institution concerned. It is also clearly desirable that they should not be personally appointed or involved in other assignments on which an opinion is required.

It is suggested that the period immediately preceding the assignment should be no less than one year.

Provision of other services to banking institutions

When an independent auditor, in addition to carrying out the attest function, provides other services to a banking institution, they should take care not to perform any management function or make management decisions. All management decisions remain the responsibility of the board of directors and management.

Family and personal relationship

- a) Personal and family relationships can affect independence.
- b) With respect to family relationships, it is important to ensure that the degree of relationship with a banking institution should not be too close to ensure that an independent approach to professional services for that banking institution will suffer.
- c) Family relationships which always pose an unacceptable threat to independence are those in which a sole practitioner or a partner in a firm, or

an employee engaged on the assignment relating to the banking institution, is the spouse, relative living in a common household or child, of an officer or employee with managerial responsibilities in a banking institution concerned, director or shareholder of the banking institution.

Goods and services

- a) Acceptance of goods, services or commissions, not on the same terms as are available to the general public from a banking institution may threaten an independent auditor's independence as may acceptance of undue hospitality.
- b) Goods or services should not be accepted from a banking institution by an independent auditor, his/her spouse or dependants except on business terms which are no more favourable than those generally available to others. Hospitality and gifts on a scale which is not commensurate with the normal courtesies of social life should not be accepted.

2. Professional Competence

- 2.1 In general the firm and responsible partner should be capable of performing the audit, given the complexity of the engagement, with proficiency and due professional care.
- 2.2 Knowledge, skills and disciplines available in the firm should be sufficient and relevant to the engagement.
- 2.3 The firm and responsible partner should have relevant experience in auditing in the related industry, based on past assignments of comparable size and complexity. Firms involved in auditing in the banking industry for the first time may wish to seek appointment as joint auditors with a firm with proven experience.
- 2.4 It is desirable that the responsible partner or at least one of the key audit staff to be utilised on the engagement possess relevant experience and a suitable qualification.
- 2.5 Staffing of the engagement should include sufficient specialised skills appropriate to the banking industry.
- 2.6 The firm should have access to a technical department capable of researching new developments in auditing and accounting standards in the banking industry and any ad hoc aspects of the engagement that may arise in the course of the audit.
- 2.7 It is desirable that the firm have access to international links with auditors of similar institutions in other countries, in order to share information and expertise and also to facilitate the audit of any cross-border activities of the institutions.
- 2.8 The firms should have access to a training department capable of providing adequate specialised training for auditors in the banking industry.
- 2.9 The firm should have access to a library with up to date sources of all applicable and relevant statements, standards, legislations, regulations, literature, trends and development within the banking industry.
- 2.10 The firm should possess or have access to a specialized unit capable of

auditing and assessing the adequacy and effectiveness of complex computerised systems.

- 2.11 The firm should have an audit approach, techniques and procedures designed to obtain reasonable assurance that misstatements arising from fraud and error that are material to the statutory financial statements taken as a whole, are detected.
- 2.12 In addition to the requirement to be subject to external practice reviews, the responsible partner should also be subject to internal peer review from time to time by partners with appropriate industry experience.
- 2.13 The firm should be able to demonstrate a competent quality assurance process that ensures the firm's internal and any externally imposed standards are being complied with.
- 2.14 The staffing of the firm and the engagement itself should be such that effectiveness can be maintained from year to year in the conduct of the audit and continuity of staff should be encouraged.

ANNEXURE B

BID-10

INFORMATION REQUIRED BY THE BANK OF NAMIBIA IN CONSIDERING THE APPROVAL OF THE APPOINTMENT OF AN INDEPENDENT AUDITOR FOR A BANKING INSTITUTION

This application form and the certification on the last page should be viewed in conjunction with the application for approval of appointment of an independent auditor and responsible partner, as per section 43(2) of the Banking Institutions Act.

Instructions for completion of the application form

The form consists of two parts:

Part A Applicable to the audit firm

Part B Applicable to the responsible partner

The responsible partner should be specifically nominated by the firm being appointed, as the responsible partner on the audit of the banking institution.

The responsible partner should complete the application form and certify the contents as set out in the declaration on the last page of this document.

When firms are appointed for the first time, both Parts A and B of the application form should be completed. Further, the same application form should be completed and submitted to the Bank for the approval of each annual appointment.

Space has been provided for any comments that the responsible partner might wish to make that could be relevant to the Bank when considering the application for approval. Should the space provided not be sufficient, the details can be provided on a separate page, duly cross-referenced to the relevant question.

Whilst the questions cover various criteria for qualifying or disqualifying audit firms from audit engagements of banking institutions, the criteria and replies thereto should not be regarded as an automatic qualification or disqualification or as exhaustive.

The criteria have been made as objective as possible, but naturally, a degree of subjectivity is still present in some criteria, and not all applicable criteria could be foreseen by the Bank.

Furthermore, depending on the complexity and size of the audit of a particular banking institution, certain questions may not be appropriate and/or applicable. Where this is the case, the fact and reason for the question not being applicable should be stated.

INFORMATION REQUIRED BY THE BANK OF NAMIBIA IN CONSIDERING THE APPROVAL OF THE APPOINTMENT OF AN INDEPENDENT AUDITOR FOR A BANKING INSTITUTION

Part A (To be completed in respect of the audit firm)

I General objective: Administrative and firm profile information

- 1. Name of firm
- 2. Business address (postal and physical), telephone and facsimile numbers.
- 3. Full name of responsible partner (including any former names). (The responsible partner should complete Part B of this application form)
- 4. Number of partners in your firm and number of partners in the office responsible for the assignment. (Use separate page if necessary)
- 5. Number of professional assistants in your firm and in the office responsible for the assignment.
- 6. Number of trainee accountants in your firm and in the office responsible for the assignment.

III General objective: Professional proficiency of the firm

10. Are you of the opinion that sufficient and relevant knowledge, skills and experiences are available in your firm for the engagement? (Please provide details)

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11. Is the responsible partner registered to act as auditor under the Public Accountants and Auditor's Act, No. 51 of 1951, as amended?

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12. What relevant qualifications, if any, in the banking industry do you and the key staff to be involved in the engagement, possess?

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13. Do you and your firm have access to a technical department capable of researching new developments in auditing and accounting standards in the banking industry? (Please provide details)

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III General objective: Professional proficiency of the firm (continued)

14. Does your firm have international links with auditors of similar institutions in other countries, in order to share information and expertise and to facilitate the audit of any cross-border activities of a banking institution? (Please provide details)

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15. Does your firm have access to adequately specialised training for auditors in the banking industry? (Please provide details)

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16. Does your firm have access to a library with up-to-date sources of all relevant statements, standards, legislation, regulations, literature, trends and developments within the banking industry? (Please provide details)

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17. Does your firm possess or have access to a specialised unit capable of auditing and assessing the adequacy and effectiveness of computerised systems? (Please provide details)

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III General objective: Professional proficiency of the firm (continued)

18. Does your firm have an audit approach, techniques and procedures designed to obtain reasonable assurance that misstatements arising from fraud and errors that are material to the financial statements as a whole are detected? (Please provide details)

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19. Does your firm ensure that its audit approach is kept up to date with regard to developments in the profession and within the banking industry? (Please provide details)

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20. Does your firm have a competent quality-assurance process that ensures that there is compliance with the firm's internal standards and any externally imposed standards? (Please provide details)

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21. Do you have firm and feasible plans to staff the engagement such that its effectiveness can be maintained from year to year, and the continuity of staff as part of the policy of your firm. (Please provide details)

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IV General objective: Disqualification of the firm

22. Is the responsible partner qualified to act as auditor, specifically relating to the criteria stated in these determinations ?

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23. Are there any pending or current lawsuits or professional liability suits against partners of the firm that the Bank should be aware of ? (Please provide details)

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24. Has your firm previously been engaged by a banking institution to perform a special investigation on its behalf that the Bank should be aware of ? (Please provide details)

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25. Does your firm have the knowledge to comply with all the special duties imposed by legislation on the auditor of a banking institution? (Please provide details)

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Part B (To be completed in respect of the responsible partner)

I General objective: Responsible partner information, qualifications and experience

1. Name of responsible partner (including any former names).
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2. Name of Institute and Society to which you belong.
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3. Membership/reference number with Institute (ICAN) and with the Public Accountants' and Auditors' Board ("PAAB").
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4. Professional qualifications and year in which they were obtained. Provide a copy of your curriculum vitae, unless it has already been provided to the Bank.
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5. Occupation and employment during the past 10 years. While in auditing, indicate types of clients, in particular how many in the banking industry.
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III General objective: Professional proficiency of the responsible partner

11. What relevant qualifications, if any, in the banking industry do you possess?
(If not covered in question 12 of Part A).

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12. Do you, in your capacity as responsible partner, have access to the following resources:

12.1 • Technical department, as contemplated in question 13 of Part A?

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12.2 • International links with the auditors of similar institutions, as contemplated in question 14 of Part A?

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12.3 • A library, as contemplated in question 16 of Part A?

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12.4 • A specialised unit, as contemplated in question 17 of Part A?

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13. Are you, as responsible partner of the engagement, subject to external practice reviews?

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14. Are you, or will you be able to show how all problems addressed in the most recent practice review report have been subsequently resolved?

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15. Are you, as responsible partner of the engagement, subject to internal peer review from time to time by other partners with appropriate industry experience? (Please provide details)

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IV General objective: Disqualification of the lead partner	
16.	Are you qualified to act as auditor specifically keeping in mind the criteria covered in these Determinations?
17.	Are there any pending or current lawsuits or professional liability, suits pending against you that the Bank should be aware of? (Please provide details)
18.	Have you ever been a responsible partner engaged by a regulatory authority to perform a special investigation on its behalf that failed to reveal a problem that was subsequently shown to exist? (Please provide details)
19.	Have you ever been removed as responsible partner of a banking institution by the Bank? (Please provide details)

DECLARATION

I, the undersigned, the designated independent auditor of
(banking institution), certify that, to the best of my knowledge, the information given in answers to the above questions in Part A and Part B (indicate as applicable) is true, complete, accurate and not misleading in any respect.

I undertake, as long as I continue to be the partner responsible for the audit of the banking institution, to notify the Bank of Namibia of any material changes, affecting the completeness or accuracy of, to the answers to the questions above, inclusive of any disciplinary action instituted against me by not later than 21 days as from the day that such changes come to my attention.

Name of responsible partner:

Name of firm:

Signed: Date:

ANNEXURE C

BID-10

APPLICATION FOR APPROVAL OF APPOINTMENT OF INDEPENDENT AUDITOR(S)

(To be submitted in duplicate)

The Governor
Bank of Namibia
WINDHOEK

1. I, the undersigned, Chairperson of the Board of Directors of hereby declare that -

(a) in accordance with the provisions of section 43 of the Banking Institution Act, 1998 (Act No. 2 of 1998), a resolution was passed at a meeting/annual general meeting* of directors/members* of the said institution, held on , to appoint:-

. (name)

of (address)

and (name)

of (address)

as auditor(s) of the said institution from until the conclusion of the next annual general meeting of the said institution.

(b) Reason for change of auditors, if applicable:

2. (a) In terms of section 43(2) of the Banking Institution Act, 1998 (Act No. 2 of 1998), I hereby apply for your approval of the appointment set out in paragraph 1(a) above.

- (b) I further certify that either of the auditors mentioned above:
- is not a director, officer or employee of this banking institution;
- does not have a material or other interest in a banking institution, its management and/or its shareholders; and
- does not have a material obligation to this institution.

.
Chairperson of the Board of Directors

Address

Date

FOR OFFICIAL USE

Approval of appointment of -

.....
as auditor granted/refused*;

.....
as auditor granted/refused*;

.....
Date

Governor

** Delete whichever is not applicable*
