

The Republic of the Union of Myanmar

Central Bank of Myanmar

Directive No. (9/2019)

5th Waning of Tabaung 1380 ME

March 25, 2019

In exercise of the powers conferred under Sections 73,74,75,76, 80 relating to Directors of Banks and Section 184 of the Financial Institutions Law (FI Law), the Central Bank of Myanmar (CBM) hereby issues the following Directive.

Title and Application

1. This Directive shall be called Directive on Directors of Bank.
2. This Directive shall apply to all Banks, Board of Directors and Directors.

Definition

3. An Independent Non-Executive director of a bank is a person who holds less than 5% of the voting shares of the bank and is not a Related Party as defined in the FI Law.

Fit and Proper Criteria

4. All directors and candidates for the Board of Directors must meet the Criteria under the Directive on Fit and Proper Criteria issued by the CBM.

Election of Board of Directors

5. The Annual General Meeting of the bank must formally elect the directors from the list of candidates who have been approved by the CBM.

Term of Board of Directors

6. The term of a director shall be 3 years and can be renewed not more than 3 consecutive times.

Vacancy in the Board of Directors

7. When a Director of the Board of Directors position becomes vacant, the Board of Directors by a majority vote can approve the appointment of a new director subject to the prior approval of the CBM and such appointment must be ratified at the next annual general meeting of the shareholders.

Composition of Board of Directors

8. The Board of Directors shall consist of 5 and not more than 15 members and shall include:
 - (a) A Chairperson appointed by majority vote of the members of the Board of Directors (CEO shall not be appointed as Chairperson).
 - (b) A Chief Executive Officer.
 - (c) At least one Independent Non-Executive Director for the Board which consists of 11 members and at least two Independent Non-Executive Directors for the Board which consists of more than 11 members.

9. The appointment of Board of Directors shall be staggered to ensure the continuity of the duties and functions of the Board of Directors.

Meetings and Minutes

10. Meetings of the Board of Directors shall be carried out as follows:
- (a) Meetings of the Board of Directors must be held at least 12 times a year, provided that the interval between two meetings shall not exceed two months.
 - (b) The Chairperson may also call for a special meeting at any time when at least two-thirds of the Directors request a meeting in writing.
 - (c) Meetings of the Board of Directors shall be presided over by the chairperson.
 - (d) In the absence of the chairperson, the meeting shall be presided over by a Director selected by majority of the Directors present at the meeting.
 - (e) Half of the members of the board including at least one independent non-executive director shall constitute the quorum.
 - (f) The decision of a majority in the meeting of the Board of Directors shall be binding and in the event of a tie, the Chairman shall have the deciding vote.
 - (g) Minutes of the meeting including the names of Directors present in the meeting and the decisions taken shall be recorded, and such minutes shall be signed by all Directors present in the meeting.
 - (h) Minutes of the meeting shall include the names of any person attending the meeting who is not a member of board.
 - (i) A Director must attend all meetings of the Board of Directors if there is no reasonable cause.
 - (j) The position of a Director who misses more than 3 consecutive meetings without reasonable cause and prior notice, shall be considered vacant.
 - (k) The minutes of the meeting must record any opinion opposed to all differing from the decision taken at the meeting.

Signing of Oath

11. Every Director elected to the Board of Directors of a bank must sign an oath of office in the prescribed Form attached to this Directive within 30 days of his or her election.
12. Failure to sign an oath of office will render the election of such director invalid.
13. A copy of this oath of office must be provided to the CBM within 14 days from the date of the oath.

Duties, Powers and Responsibilities

14. The Board of Directors, has ultimate responsibility for the bank's business strategy and financial soundness, key personnel decisions, organizational structure, governance framework and practices, risk management and compliance obligations.
15. In discharging these responsibilities, the Board of Directors must take into account the legitimate interests of depositors, shareholders and other relevant stakeholders.
16. The Board of Directors may appoint suitable committees and delegates some of its functions.

17. The Board of Directors shall establish the bank's organizational structure.
18. The responsibilities of the Board of Directors shall include -
- (a) keeping up with material changes in the bank's business and external environment as well as act necessary changes in a timely manner to protect the long-term interests of the bank;
 - (b) overseeing the development and approval of the bank's business objectives and strategies and monitor their implementation;
 - (c) playing a lead role in establishing the bank's corporate culture and values;
 - (d) overseeing implementation of the bank's governance framework and periodically review that it remains appropriate in the light of material changes to the bank's size, complexity, geographical footprint, business strategy, markets and regulatory requirements;
 - (e) establishing, along with bank's officers, the bank's risk appetite, taking into account the competitive and regulatory landscape in the banking industry and the bank's long-term interests, risk exposure and ability to manage risk effectively;
 - (f) overseeing the bank's adherence to its risk policy and risk limits;
 - (g) approving the policy and oversee the implementation of key policies and rules pertaining to the bank's capital adequacy assessment process, capital and liquidity plans, compliance policies and obligations, and the internal control system;
 - (h) periodically reviewing key policies and rules to ensure their continued applicability and change or update where necessary;
 - (i) requiring the bank to maintain a robust finance function responsible for accounting and financial data;
 - (j) approving the annual financial statements and require an annual independent audit;
 - (k) approving the selection and performance of the CEO and other Officers;
 - (l) overseeing the bank's policies on salaries and benefits, including monitoring and reviewing executive compensation and assessing whether it is aligned with the bank's risk culture and risk appetite;
 - (m) overseeing the integrity, independence and effectiveness of the bank's policies and procedures for reporting fraud and other illegal activities;
 - (n) overseeing the development of, and approve the bank's policy on transactions with related parties; and
 - (o) overseeing the compliance of the bank with the FI Law, regulations and directives issued there under.
19. The Board of Directors should maintain appropriate records (e.g. meeting minutes, summaries of matters reviewed, recommendations made, decisions taken and dissenting opinions) for a period of ten years of its deliberations and decisions.
20. The Board of Directors is responsible for ensuring that the bank maintains an effective relationship with its regulators.
21. The Board of Directors is responsible for the bank's compliance with all applicable Laws of Myanmar.

Conflicts of Interest

22. The Board of Directors shall adopt a formal written conflicts-of-interest policy which shall apply to the member of the Board of Directors as well as the Officers of the bank and compliance process for implementing the policy.

23. The conflict of interest policy shall require a member of Board of Directors and Officers to disclose all direct and indirect substantial financial and commercial interests of the directors and officers, and his or her relative in the bank.

24. The conflict of interest policy must include:

- (a) a director's duty to avoid, to the extent possible, activities that could create conflicts of interest or the appearance of conflicts of interest;
- (b) examples of where conflicts can arise when serving as a board of director;
- (c) a rigorous review and approval process for directors to follow before they engage in certain activities so as to ensure that such activity will not create a conflict of interest;
- (d) a director's duty to promptly disclose any matter that may result, or has already resulted, in a conflict of interest;
- (e) a director's responsibility to abstain from voting on any matter where the director may have a conflict of interest or where the director's objectivity or ability to properly fulfill duties to the bank may be otherwise compromised;
- (f) adherence to the bank policy on related party transactions;
- (g) the way in which the Board of Directors will deal with any non-compliance with the policy;
- (h) format to follow in reporting information; and
- (i) annual updates to the disclosure.

Prohibitions on a Director

25. A Director shall not-

- (a) engage in any activity which would be against the interests of the bank;
- (b) simultaneously be a director or officer of another bank or financial institution;
- (c) interfere in day to day management of the bank;
- (d) engage in any transactions with the bank where he has a direct or indirect financial interest in the customer of the bank;
- (e) engage in any activity resulting in personal benefit by misusing the name and office assumed;
- (f) divulge confidential customer information and contravention of FI Law; and
- (g) engage in any activity which render the director no longer fit and proper to hold office as defined in the Directive on Fit and Proper Criteria.

Professional Development of Directors

26. All directors shall undergo necessary training every 2 years to enable them to fulfill the duties effectively.

Liability of Directors and Chief Executive Officers

27. Directors and Chief Executive Officers must discharge their duties with honesty and integrity.

28. A director and Chief Executive Officer of a bank shall be liable for any loss or damages sustained by the bank, any depositor of the bank or any other person as a result of his or her gross negligence or willful misconduct in the performance of his or her functions or duties.

Non-Compliance of the Directive

29. Failure to comply with this Directive constitutes a violation of the FI Law and is subject to corrective actions or sanctions as may be imposed under sections 94 and 96 of the Law and the administrative penalties under section 154 of the said Law.

Effectiveness

30. This Directive shall come into effect 12 months from the issued date.

Sd./xxxxxxxxx
For Governor
Soe Thein, Deputy Governor

The Board of Directors

Date:

.....Bank

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Re.: Oath of Office

I, on assuming the position as Director of this Bank onwish to furnish the following declaration as required by the Directive on Directors of bank:

1. I meet the qualifications and criteria for serving as a Director of a Bank as defined in the CBM Directive on Fit and Proper Criteria.
2. I am not disqualified from being a Director of this Bank as defined in the CBM Directive on Fit and Proper Criteria.
3. I will adhere to the Conflicts of Interest Policy of this Bank as defined in the CBM Directive on Board of Directors of Banks.
4. I will adhere to the Bank policy on Related Parties as required by the CBM Directive on Related Parties.
5. I or my family own shares and debentures of this Bank. (attach list if necessary)
6. I or my family own ... shares and debentures of other banks or financial institutions. (attached list if necessary)
7. Except this, I am not a Director of any other bank or financial institution.
8. Members of my family are/are not working as executive/staff of this Bank. (If yes, specify))
9. The above declaration/information is true and correct.
10. If found to be otherwise, shall be liable according to laws.

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Signature of Director

Name of Director