

REQUIREMENTS FOR SETTING UP A BANK IN LESOTHO

The legislation governing the banks in Lesotho is the Financial Institutions Act (FIA) 2012 and its implementing regulations. The following information is based on the Act and the Financial Institutions (Licensing Requirements) Regulations 2016.

Licensing

Section 5

Section 5 (1)

No banking business shall be transacted, either in Lesotho or abroad by a local financial institution, or in Lesotho by a foreign financial institution, unless that financial institution has been licensed by the Commissioner under the FIA.

Section 5 (2)

No financial institution shall be granted a licence under this Act unless it is incorporated as a public company under the Companies Act.

Section 5 (3)

No company intending to operate as a financial institution shall be registered without prior written approval of the Commissioner.

Section 6

(1) In order to obtain a licence under this Act, the applicant shall apply in writing to the Commissioner and submit the following:

- a) authenticated copies of the memorandum and articles of association or, in the case of a foreign financial institution which is not incorporated in Lesotho, such similar documents regulating its affairs;
- b) a statement of the address of its head office, and the name, nationality, qualifications, experience and address of its chairman, of every director and of every officer;
- c) if it is a foreign financial institution, a statement from the supervisory authorities of the home country that its chairman, directors, principal officers and management team as whole are fit and proper persons and that it is subject to comprehensive supervision on a consolidated basis;
- d) where applicable, a copy of the audited financial statements for the last two years and that of its head office or parent company,
- e) the full particulars of the business it proposes to carry on, and of the manner in which it proposes to carry on that business;
- f) The location of the principal and other places of business in Lesotho where it proposes to carry on its activities and, in the case of a mobile agency, the area to be served;
- g) Such other information as the Commissioner may require.

Fees

Section 7

On application, the applicant shall pay to the Commissioner an investigation fee that will be prescribed by the Commissioner and a licence fee .

Inquiries

Section 8

Section 8 (1)

In considering an application for a license, the Commissioner shall conduct an investigation necessary to determine whether the applicant, its promoters, principal shareholders, chairman, directors, principal officers, and management team are fit and proper to be granted a licence

Section 8 (2)

In conducting the investigation, the Commissioner shall consider among others, the financial resources and history of the applicant, the character and experience of its management, integrity and standing of direct and indirect principal shareholders, the adequacy of its capital, the convenience and needs of the community it intends to serve, the earning prospects afforded by the area primarily to be served, the prospective effect that the opening of the proposed financial institution may have on the existing institutions and such other matters and criteria that the Commissioner deems appropriate.

Minimum Capital

Section 9

A financial institution shall not be granted a licence unless it fulfils a minimum capital of not less than twenty million Maloti or such required capital which the Commissioner may prescribe from time to time, by regulations published in the gazette.

Names of Institutions

Section 17 (1) (b)

No licensed financial institution shall be granted or continue to hold a license under a name which so closely resembles the name of an existing licensed institution as would be likely, in the opinion of the Commissioner, to mislead the public.

Section 17 (3)

A licensed institution shall not use or refer to itself by a name other than the name under which it is licensed, except with the written consent of the Commissioner.

Place of Business**Section 18 (1)**

Licensed institution shall carry on business at a place designated in the license.

Section 18 (2)

A licensed institution shall not open a new place of business or change location or close an existing place of business without prior approval from the Commissioner.

Capital**Section 22 (1)**

Licensed institution shall maintain at all times, unimpaired paid up capital and reserves.

Minimum Local Assets**Section 25**

Licensed institution shall maintain local assets as stipulated in the Financial Institutions (Minimum Local Assets Requirements) Regulations 2016

Minimum Liquid Assets**Section 26**

Licensed institution to maintain liquid assets as stipulated in the Financial Institutions (Minimum Liquid Assets Requirements) Regulations 2016

Regulations 6, 9 and 18 of the Licencing Requirements relate to the ownership structure , overall viability strategy of the proposed company and the physical facilities that are necessary for a viable company that can be licensed under the FIA.