

GOVERNMENT NOTICE No. 294 published on 22/8/2014

THE BANKING AND FINANCIAL INSTITUTIONS (EXTERNAL
AUDITORS) REGULATIONS, 2014

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THE BANKING AND FINANCIAL INSTITUTIONS ACT
(CAP.342)

REGULATIONS

(Made under Section 71)

THE BANKING AND FINANCIAL INSTITUTIONS (EXTERNAL
AUDITORS) REGULATIONS, 2014

PART I
PRELIMINARY PROVISIONS

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| Citation | 1. These Regulations may be cited as the Banking and Financial Institutions (External Auditors) Regulations, 2014. |
| Application | 2. These Regulations shall apply to all banks and financial institutions and External Auditors. |
| Interpretation | 3. In these Regulations, unless the context otherwise requires- |
- “Act” means the Banking and Financial Institutions Act;
- “Bank” means the Bank of Tanzania;
- “banking business” has the meaning ascribed to it in the act;
- “competitive bidding ” means the method of procurement whereby suppliers, contractors or consultants are invited by the procuring entity to compete with each other in submitting priced tenders for goods, works and services;

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“conflict of interest” means a situation in which someone in a position of trust has competing professional, business or personal interest, making it difficult to fulfil his duties impartially;

Cap.286

“external auditor” means an auditing firm recognized by the National Board of Accountants and Auditors to be practicing in auditing and related activities and has been approved by the Bank to audit banks and financial institutions;

“International Financial Reporting Standards” means standards and interpretations issued by the International Accounting Standards Board ;

“International Standards on Auditing” means standards on auditing issued by International Auditing and Assurance Standards Board;

Cap. 212
Cap. 286

“officer” has the meaning ascribed to it in the Act;

“undercapitalized” in relation to a bank or financial institution, means core capital of less than twelve and one half percent of total risk-weighted assets and off balance sheet exposure determined in accordance with the Banking and Financial Institutions (Capital Adequacy) Regulations.

Objectives

4. The objectives of these Regulations are to establish-
 - (a) criteria for approving external auditor of a bank or financial institution; and
 - (b) duties of banks, financial institutions and approved external auditors.

PART II
APPOINTMENT OF EXTERNAL AUDITOR

Appointment of
external auditor

5. -(1) A bank or financial institution shall appoint annually an external auditor who has no conflict of interest and notify the Bank within seven days of such appointment.

(2) Where a bank or financial institution fails to appoint an external auditor under sub-regulation (1), or to fill any vacancy for an external auditor which may arise, the Bank may appoint, on behalf of a bank or financial institution, an external auditor and fix his remuneration which shall be paid by the bank or financial institution.

(3) A bank or financial institution shall not remain without an external auditor for more than ninety days from the date the position falls vacant.

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Rotation of external auditor

6. -(1) An external auditor shall not audit the same bank or financial institution for more than two consecutive terms of three years.
- (2) Without prejudice to the requirement of sub-regulation (1), the re-appointment of an external auditor for a second term of three years shall be subject to a competitive bidding.
- (3) Subject to sub-regulation (1), an external auditor may resume the role as external auditor with the same bank or financial institution after a lapse of three years from the last audit engagement.
- (4) An external auditor shall rotate the engagement partner in charge of audit of a bank or financial institution after every three years.

Change of external auditor

7. A bank or financial institution shall not, in the course of performance of the audit work, change its external auditor except with the prior written approval of the Bank.

PART III

DUTIES OF EXTERNAL AUDITOR

Opinion of external auditor

8. An external auditor shall provide an opinion as to whether-
 - (a) the financial statements present a true and fair view of the financial position and performance of the bank or financial institution;
 - (b) the financial statements have been prepared in accordance with International Financial Reporting Standards and any standards and guidelines that shall be prescribed from time to

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time by the National Board of Accountants and Auditors; and

- (c) a bank or financial institution has complied with the Act and its Regulations.

Additional duties

9. -(1) Subject to section 22 of the Act, the Bank may require an external auditor to-

- (a) submit directly to the Bank such additional information in relation to his audit as the Bank may consider necessary; and

- (b) carry out any other special investigation and submit a report on any of the matters arising therefrom.

(2) Where the Bank requires an external auditor to carry out a special investigation to a bank or financial institution, the bank or financial institution concerned shall remunerate the auditor in respect of the discharge by him of all or any of such additional duties.

Special reports

10. The external auditor shall immediately report to the Bank if, during the course of the audit, he becomes aware of-

Cap. 197
Cap. 171
Cap. 423

- (a) any serious breach of or non-compliance with the provisions of the Act, the Bank of Tanzania Act, Foreign Exchange Act, Anti Money Laundering Act, or Regulations, guidelines, circulars or directives issued by the Bank or any other relevant legislation;

- (b) any criminal offence involving fraud or other dishonesty committed by a bank or financial institution or any of its officers or employees;
 - (c) any losses incurred which have caused the bank or financial institution to be undercapitalized;
 - (d) any serious irregularities which may jeopardize the rights of a depositor or creditor of a bank or financial institution; or
 - (e) circumstances that make him unable to confirm ability of the bank or financial institution to settle claims of depositors or creditors out of its assets.
- Computation of capital position 11. The external auditor shall, taking into account the requirements of the Act and prudential Regulations issued by the Bank, review and provide an opinion in the financial statements on the accuracy of computation of capital position of the bank or financial institution as at the end of each financial year.
- Audit program 12. The audit program of an external auditor shall include review of capital adequacy computation, related parties transactions, assessment of movement of loan provisions and liquidity ratios, in accordance with the requirements of the Act, Regulations and circulars issued by the Bank.

PART IV
REGISTRATION BY THE BANK

- Application letter 13. Any audit firm seeking to be approved by the Bank as an external auditor under these Regulations shall submit an application letter together with-
- (a) details of the structure and organization of the firm, its principal place of business and branches , and in

the case of an international audit firm, details of the head office including legal and professional status of the parent firm;

- (b) names, particulars and detailed curriculum vitae of partners and senior professional staff demonstrating previous experience in the audit of banks and financial institutions;
- (c) list of major audit assignments that have been performed for the last three years and total fees received for the last year from each audit assignment that was performed;
- (d) details of any existing relationship either directly or indirectly between the firm or partner and any bank or financial institution;
- (e) details of any associate firm with whom an agreement for associate in audit is in place; and
- (f) any other information the Bank may require.

Assessment of the application

14. The Bank shall, when assessing an application, consider whether the firm has at least ten permanent staff with education and experience in accountancy and auditing, and at least four of whom are registered with National Board of Accountants and Auditors.

PART V DISQUALIFICATION FROM APPOINTMENT

Disqualification from appointment

15. An audit firm shall not qualify for appointment as an external auditor of a bank or financial institution if any of its partner or member is-
- (a) a director, officer or employee of any bank or

financial institution;

- (b) a business partner of a director, officer or employee of that bank or financial institution;
- (c) an employee of a director, officer or employee of that bank or financial institution;
- (d) a director, officer or employee of an associate of that bank or financial institution;
- (e) a person who, by himself or his business partner or his employee, regularly performs the duties of company secretary or accounting for that bank or financial institution;
- (f) a firm or member of a firm of auditors of which any partner or employee falls within the categories mentioned in paragraphs (a) to (e); or
- (g) any other person whose appointment as an external auditor may create conflict of interest.

Deregistration of external auditor

16. An external auditor shall be removed from office or from the list of external auditors if he-

- (a) fails to comply with the requirements prescribed in the Act and these Regulations; or
- (b) fails to meet the requirements of the International Standards on Auditing and any standards and guidelines that shall be prescribed by the National Board of Accountants and Auditors.

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Provision of non-audit services

17. -(1) An external auditor shall not be approved to audit a bank or financial institution if the firm or its partners are directly or indirectly involved with the bank or financial institution in other non-audit services including-

- (a) book-keeping or other services related to the accounting records or financial statements of the audit client;
- (b) financial information systems design and implementation;
- (c) appraisal or valuation services, fairness opinions or contribution-in-kind reports;
- (d) actuarial services;
- (e) internal audit outsourcing services;
- (f) management functions or human resources ;
- (g) broker or dealer, investment adviser, or investment banking services;
- (h) legal services and expert services unrelated to the audit; and
- (i) any other service that the Bank may specify as not permissible.

(2) The external auditor engaged by a bank or financial institution and who is directly or indirectly involved with that bank or financial institution in any of non-audit services mentioned in sub-regulation (1) shall be disqualified by the Bank from auditing the bank or financial institution.

(3) An audit firm, audit partners or audit managers, who have offered any of non-audit services referred to under sub-regulation (1) to a bank or financial institution, may be allowed to audit the bank or financial institution after three years from the date he ceases to offer such services.

PART VI
GENERALS PROVISIONS

- Notice
18. An external auditor of a bank or financial institution shall, notify the Bank within fourteen days of-
- (a) his resignation from office and the reasons thereof;
 - (b) his decision not to seek re-appointment and the reasons thereof; or
 - (c) qualification of his opinion on the financial statements, including reasons thereof.
- Notification upon change of structure
19. An external auditor shall notify the Bank within thirty days of changes in its organization structure involving the partners and staff specified in regulation 13 and 14.
- Notification of relationship
20. Where an external auditor of a bank or financial institution or any of its partner has established any other relationship with that bank or financial institution, he shall immediately notify the Bank
- Revocation
GN. No. 375
Of 2008
21. The Banking and Financial Institutions (External Auditors) Regulations, 2008 are hereby revoked.

Dar Es Salaam,
_____, 2014

BENNO J. NDULU
Governor