GOVERNMENT NOTICE NO. 50

FINANCIAL SERVICES ACT, 2010

(ACT NO. 26 OF 2010)

FINANCIAL SERVICES (ASSET CLASSIFICATION REQUIREMENTS FOR SAVINGS AND CREDIT COOPERATIVE SOCIETIES) DIRECTIVE, 2013

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IN EXERCISE of the powers conferred by section 34 (2) (*u*) of the Financial Services Act, 2010, I, CHARLES S. R. CHUKA, Registrar of Financial Institutions, make the following Directive—

PART I—PRELIMINARY

Citation

1. This Directive may be cited as the Financial Services (Asset Classification Requirements for Savings and Credit Cooperative Societies) Directive, 2013.

Interpretation

2.—(1) In this Directive, unless the context otherwise requires—

"adversely classified loans or other assets" means loans or other assets which are classified as overdue or loss;

"contra-asset account" means an asset account with a credit balance and offsets the debit balance of an associated asset account;

"delinquent loan" means any loan, which the principal or interest remain unpaid after the due date;

"provision for loan loss" means a charge in the income statement to reflect an increase in the probability of losses due to uncollected loans;

"Registrar" means the Registrar of Financial Institutions appointed under the Act; and

"restructured loans" means loans whose original repayment terms have been altered due to changes in the borrower's financial conditions.

(2) Any term used in this Directive, and which has been defined in the Act, has the meaning ascribed to that term under the Act.

PART II—OBJECTIVES

3. The objectives of this Directive are to ensure that a Savings and Credit Cooperative Society (in this Directive hereinafter referred to as a "SACCO")— Objectives

(*a*) manages its credit risk;

(*b*) properly identifies and makes provisions on its non-performing assets; and

(*c*) accurately presents financial statements.

PART III—BOARD OVERSIGHT

4. The board of directors of a SACCO shall— Board oversight

(*a*) adopt and implement a written policy covering the following—

(i) classification of financial assets;

(ii) establishment of adequate provisions for loan loss;

(iii) types of lending that a SACCO may engage in; and

(iv) practices relating to various collateral that a SACCO may hold;

(*b*) adopt and implement sound risk management policies; and

(*c*) review and approve policies as or when necessary or at least once every two years.

PART IV—LOAN DELINQUENCY MONITORING

5.—(1) A SACCO shall monitor all loans for performance. Delinquency monitoring

(2) When classifying delinquent loans, a SACCO shall classify the entire outstanding loan balance as delinquent.

(3) A SACCO shall classify loans using the following categories—

(*a*) current loans;

(*b*) 1 to 30 days past due;

(*c*) 31 to 90 days past due;

(*d*) 91 to 180 days past due;

(*e*) 181 to 365 days past due; and

(*f*) more than 365 days past due.

(4) A SACCO shall generate a delinquency report as at the last day of each month.

6.—(1) A SACCO shall not account for interest on loans as income, except where it is received in cash. Income recognition

(2) A SACCO shall calculate interest using reducing balance method.

PART V—LOAN CLASSIFICATION

Requirement to classfy loans

7.—(1) A SACCO shall classify loans for loan loss provisioning, in the following categories—

(*a*) performing—being loans whose principal and interest repayments are current and performing in accordance with the contractual terms and are expected to continue doing so;

(*b*) overdue—being loans that are thirty days to eleven months past due; and

(*c*) loss—being loans that are twelve months past due.

(2) A SACCO shall not restructure a loan in order to avoid an adverse classification.

(4) A SACCO shall not grant a new loan to a borrower whose loan is delinquent.

Classification of restructured loans

8.—(1) A SACCO shall classify restructured loans separately.

(2) A SACCO shall not restructure a loan more than once.

(3) A SACCO shall maintain the following information on a restructured loan in the borrower's loan file—

(*a*) reasons for restructuring the loan; and

(*b*) specific changes in terms of the loan.

PART VI—PROVISION FOR LOAN LOSSES

Requirement for provision for loan losses

9.—(1) A SACCO shall make provision for loan losses as follows—

(*a*) thirty-five per cent (35%) on the outstanding principal balances for loans classified as overdue; and

(*b*) one hundred per cent (100%) on the outstanding principal for loans classified as loss.

(2) A SACCO shall write-off all loans classified as loss.

(3) A classification of a loan as loss shall not mean that a SACCO should not take further measures to recover the loan.

Maintenance of the provision for loan loss account

10.—(1) A SACCO shall charge a provision for loan loss to the income statement in the current period.

(2) A SACCO shall analyse the adequacy of the provision for loan loss on a monthly basis.

(3) A SACCO shall create and maintain a loan loss account regardless of its profitability.

(4) A SACCO shall not declare dividends before making adequate provision for loan loss.

(5) The board of directors shall be responsible for ensuring adequate provision for loan loss.

11.—(1) The board of directors shall approve all loan write-offs. Use of the loan loss reserves

(2) A SACCO shall only write-off the outstanding principal amount against the provision for loan loss account.

(3) A SACCO may continue to accumulate interest on written-off loans, strictly in off-balance sheet accounts.

12.—(1) Other than loans, a SACCO shall regularly review other assets and make necessary provisions. Provision for other asset losses

(2) A SACCO shall make a provision where—

(*a*) an actual loss of asset value occurs; or

(*b*) the estimated recoverable amount of the asset is less than its book value.

(3) A SACCO shall record provisions made in subparagraph (2) as a contra-asset account.

Part VII—Reporting Requirement

13. A SACCO shall prepare and submit to the Registrar a return on classification of assets and provisioning as prescribed under the Financial Services (Reporting Requirements for Savings and Credit Cooperative Societies) Directive, 2013. Return submission G.N. No. . . . of 2013

Part VIII—Enforcement

14.—(1) The Registrar shall impose the following monetary penalties for violations of this Directive— Monetary penalties

(*a*) for SACCOs, up to five million Kwacha (K5,000,000); and

(*b*) for natural persons who are members of the board of directors or management, up to two million Kwacha (K2,000,000).

(2) The SACCO or natural person shall pay the penalty in subparagraph 1 through a bank certified cheque payable to the Reserve Bank of Malawi within ten working days after being notified of the violation.

15. In addition to the monetary penalty imposed in paragraph 14 (1), the Registrar may impose directions, administrative penalties and enforcement action as provided for under the Act and the Financial Cooperatives Act, 2011. Other penalties Act No. 8 of 2011

Part IX—Transitional Arrangements

16. A SACCO that does not meet the minimum standards prescribed in this Directive shall comply with the Directive within twelve months from the date of publication. Compliance with this Directive

Made this 13th day of November, 2013.

C. S. R. Chuka
Registrar of Financial Institutions