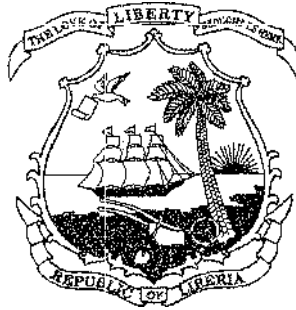


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**E X T R A O R D I N A R Y**

The Government of the Republic of Liberia announces that the Central Bank of Liberia (CBL), pursuant to its mandate under Section 55 of the Central Bank of Liberia Act of 1999, has issued on February 15, 2005, its Prudential Regulation No. CBL/SD/02/2005 hereinunder:

**REGULATIONS ON SUPERVISION OF DISTRESSED  
BANKS**

**REGULATIONS ON SUPERVISION OF DISTRESSED BANK**

**1.0 INTRODUCTION**

Pursuant to the authority vested in it by Section 55 of the Central Bank of Liberia Act of 1999 (CBL Act), and Sections 25, 32, 39, 40 and 47-55 of the New Financial Institutions Act (New FIA) of 1999, the CBL hereby prescribes, makes, regulates and sets forth as follows:

**2.0 DEFINITIONS**

- (a) Distressed Bank – Financial Institution - Is a bank-financial institution that shows one or more weaknesses, including undercapitalization, illiquidity, poor management practices and/or unsafe banking practices.
- (b) Adequate Capitalization and/or Capital Adequacy - A bank-financial institution is said to have adequate capitalization when it has a Capital Adequacy Ratio (CAR) of 8% and maintains a net worth of US\$2M or its equivalence in Liberian Dollars.
- (c) Undercapitalization – A bank-financial institution is said to be undercapitalized if it has a capital adequacy ratio (CAR) that is less than 8% and/or has a net worth of less than US\$2M or its equivalence in Liberian Dollars.
- (d) Significantly Undercapitalized - This is a worsened state of undercapitalization at/in which a bank-financial institution's capital is so impaired that it has a capital adequacy ratio (CAR) equal to or greater than 2% but less than 7% and/or has a net worth of less than US\$ 1M or its equivalence in Liberian Dollars.
- (e) Critically Undercapitalized -This is a worsened state of undercapitalization at which a bank financial institution's capital is so impaired that it has capital adequacy ratio (CAR) of less than 2% and/or maintain a net worth of less than U\$0.5M or its equivalence in Liberian Dollars.
- (f) Inadequately liquid - A bank-financial institution is said to be inadequately liquid if it has a liquidity ratio below the statutory minimum of 15%.
- (g) Significantly illiquid - This is a condition when a bank-financial institution records a liquidity ratio less than 10% but greater than 5%; when it suffers clearing operations losses for five (5) consecutive days; and/or has an

unsecured overdrawn account with the CBL for three (3) consecutive days.

- (h) Critically illiquid - This is a condition when a bank-financial institution records a liquidity ratio of less than 5%; when it has an unsecured overdrawn account with the CBL for five (5) or more business days and/or is unable to meet maturing obligations.
- (i) Non-compliant - A bank financial institution is said to be non-compliant if (1) it is illiquid or undercapitalized, or (2) it neglects, refuses or fails to comply with provisions of the New FIA, CBL Regulations and Directives, and/or an agreement signed with the CBL.
- (j) Unsafe and Unsound Banking Practices - Unsafe and unsound banking practices, as defined herein, refer to any banking activities or banking practices not consistent with the New FIA, or regulations and directives issued by the CBL or in accordance with generally acceptable banking practices. It specifically includes a bank that CBL determines, at its sole discretion, to be in willful or negligent disregard of supervisory instruction and/or banking regulation.

### **3.0 SUPERVISION OF NON-COMPLIANT BANK**

- 3.1 All operating banks determined to be undercapitalized, illiquid or engaged in unsafe and unsound banking practices shall be subject to concrete and targeted progressive enforcement actions, including direct supervisory intervention, that are reasonably time-bound and measurable, as specifically provided herein below.
- 3.2 All operating and non-operating banks that are determined after final viability assessments to lack the resources or other requirements of CBL will be subject to prompt final resolution, as specifically provided herein below at Section 5.0 of this Regulation.

### **4.0 RESTRUCTURING AND RESOLUTION OF NON-COMPLIANT BANKS**

- 4.1 Effective upon the adoption of this policy, the CBL, through the Bank Supervision Department (BSD), will promptly apply specialized enforcement actions to any bank found to be critically undercapitalized, critically illiquid or in willful or negligent disregard for supervisory authority.
- 4.2 The first step in specialized enforcement shall be for BSD to develop detailed Supervisory Strategy for each bank, outlining its viability and, if it is viable, its

Alternatives for recapitalization or achieving regulatory compliance.

- 4.3 Based on the detailed Supervisory Strategies to be developed for each operating bank in accordance with Section 4.2 above, CBL will take one of the following actions:
- 4.3.1 Banks determined not to be viable will be subject to seizure followed by compulsory reorganization through Provisional Administration and/or Liquidation. These steps will be implemented within a maximum period of sixty (60) days of such determination and concluded within twenty-four (24) months thereafter.
  - 4.3.2 Banks determined to be viable will be granted a formal Regulatory Forbearance by the CBL following the adoption of a written undertaking (execution of a written MOU with the CBL) signed by every member of the Bank's Board of Directors and executed within thirty (30) days of such determination. Provisions of the written Agreement (MOU) will be established at the sole discretion of the CBL and will specify both time-bound corrective measures and risk management controls that are further defined in this Regulation.
  - 4.3.3 If a Bank otherwise eligible for Formal Regulatory Forbearance fails/neglects to agree or execute within seven days a written undertaking or MOU as described in Section 4.3.2, or having executed such written undertaking fails to implement or achieve the corrective measures and risk management control within the time specified, it shall be immediately subject to final resolution through seizure, Provisional Administration and/or Liquidation. These steps would be implemented within sixty (60) days of such determination and concluded within twenty-four (24) months thereafter.
- 4.4 The corrective actions that the CBL determines to be necessary to bring the bank into capital, liquidity and/or other prudential or regulatory compliance will be comprised as follows:
- 4.4.1 Mandatory elements comprised of Direct Supervisory Intervention as further described in Section 4.4.3 of this Regulation; adoption and implementation of a Corrective Action Plan; suspension of branch applications; suspension of dividend payments; suspension of any new or renewed credit contract, or investment transaction with insiders; and freezing of all insider depository accounts.
  - 4.4.2 Optional elements may include but not be limited to: suspension/removal of management officials and board members; limitations on deposit growth and lending; restriction on investment activity; and either restriction of withdrawal right of off shore banks accounts or transfer of

off-shore correspondent account balances to an account held in favor of the Bank at the CBL.

- 4.4.3 Direct Supervisory Intervention (DSI) shall consist of an enforcement activity through which the CBL rescinds some or all of the delegated authority it has provided through a banking license to shareholders, directors, and management and simultaneously vests same instead in a CBL representative whose responsibility it will be to provide direct supervision through the bank's Board and Management in order to bring the Bank within regulatory compliance.
  - 4.4.4 Every bank that is granted a formal Regulatory Forbearance shall simultaneously be extended a maximum period of nine months within which to achieve all of the corrective actions required by the CBL, including recapitalization and/or reorganization.
- 4.5 Consistent with the New FIA, a bank that is seized pursuant to this Regulation shall generally be placed under a Provisional Administration. The principal focus of Provisional Administration, as contemplated herein, will consist of three actions.
- 4.5.1 The first will be to complete the corrective actions identified by BSD as conditions for Regulatory Forbearance, and agreed to be implemented by the bank in a signed written MOU to restore the safety and soundness of the bank.
  - 4.5.2 The second will be to recapitalize the bank through reorganization, solicitation of investors interest, and similar efforts, in which role the Provisional Administrator will function independently, preserving the supervisory oversight role of the CBL.
  - 4.5.3 The third focus will follow if the first two efforts fail, and shall consist of preparing the bank for final liquidation. In all of its activities, the Provisional Administration shall prioritize cost containment, collection of problem assets, regulatory compliance and protection of depositors' interests.
- 4.6 Any non-operating bank with inadequate capital or inadequate financial, managerial, and governance resources will be placed in liquidation in accordance with the liquidation procedures contained in the New FIA. The CBL will file each petition for liquidation within thirty (30) days of completion of a final viability assessment.

- 4.7 Non-operating banks with potentially adequate financial, managerial, and governance resources shall be considered for re-licensing as de novo banking institutions. In addition to rigorous due diligence of governance capacity, CBL will require any potentially eligible non-operating bank to discharge all obligations to existing depositors before re-licensing will occur. Shareholders will also be required to deposit in an account at CBL funds for recapitalizing. CBL will grant a recapitalization period of up to one hundred eighty (180) days following the completion of the final viability assessment referred to in 3.0 and 4.0 above.

## **5.0 PENALTY FOR VIOLATION**

A licensed bank found in violation of these regulations shall be liable to pay a fine of not less than Two Hundred thousand Liberian Dollars (L\$200,000) for each infraction and/or be subject to immediate supervisory sanctions.

Issued this 15<sup>th</sup> day of February, A.D. 2005 in the City of Monrovia, Republic of Liberia.

BY ORDER OF THE PRESIDENT

MINISTER OF FOREIGN AFFAIRS

MINISTRY OF FOREIGN AFFAIRS  
MONROVIA, LIBERIA  
FEBRUARY 2005