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THE BANKING AND FINANCIAL INSTITUTIONS ACT,

REGULATIONS

(Made under section 71)

THE BANKING AND FINANCIAL INSTITUTIONS (COMPULSORY LIQUIDATION)
REGULATIONS, 2024

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THE BANKING AND FINANCIAL INSTITUTIONS ACT,

REGULATIONS

(Made under section 71)

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Banking and Financial Institutions (Compulsory Liquidation) Regulations, 2024.
- Application 2. These Regulations shall apply to a bank or financial institution under compulsory liquidation.
- Interpretation 3. In these Regulations, unless the context otherwise requires-
- Cap. 342 "Act" means the Banking and Financial Institutions Act,
Cap. 197 "Bank" has the meaning ascribed to it under the Bank of Tanzania Act;
 "bank" has the meaning ascribed to it under the Act;
 "creditor" means a person who has receivables from or claims to the bank or financial institution under liquidation, including depositors;
 "financial institution" has the meaning ascribed to it under the Act;
 "liquidator" means a person appointed by the Bank to wind up the affairs of a bank or financial institution;
 "person" has the meaning ascribed to it under the Act;

“statement of affairs” means audited statement of financial position of a bank or financial institution which contains assets, liabilities and capital on the date of license revocation which is prepared in accordance with the prevailing financial accounting standards.

PART II LIQUIDATION PROCESS

Appointment
of liquidator

4.-(1) Where a resolution plan calls for liquidation of a bank or financial institution as determined by the Bank, the Bank shall appoint a liquidator.

(2) The appointment of the liquidator under subregulation (1) shall have the same effect as the appointment of any other liquidator done by the Court.

(3) The Bank shall, in writing, inform the appointed liquidator of such appointment and responsibilities.

(4) The Bank shall cause General Notice of appointment of a liquidator to be published in the *Gazette* and in at least one newspaper of wide circulation in the United Republic.

Powers of
liquidator

5. The liquidator shall have powers to-

- (a) institute or defend any action or other legal proceedings in the name and on behalf of a bank or financial institution under liquidation;
- (b) appoint professionals or any other person to assist in performance of the duties or provision of services as may be required;
- (c) appoint an agent to assist the liquidator in any business as it may be necessary;
- (d) realize assets of a bank or financial institution under liquidation and pay creditors;
- (e) to negotiate, compromise, and settle any claim, debt, liability, or obligation of a bank or financial institution under liquidation;
- (f) sell the property of a bank or financial institution under liquidation by public auction or private contract and effect transfer of ownership

accordingly;

- (g) review the existing contracts of a bank or financial institution under liquidation and determine its continuity;
- (h) raise on derivatives of a bank or financial institution under liquidation any amount of money requisite;
- (i) set off mutual credits, debts or mutual dealings of a bank or financial institution under liquidation which existed prior to its liquidation;
- (j) invest funds in the liquidation account which are not immediately required for the purpose of financing day to day liquidation operations in the Government securities;
- (k) execute all deeds, receipts and other documents for the purpose of facilitating liquidation; and
- (l) perform any other action as may be necessary for liquidation of a bank or financial institution.

Duties of liquidator

6. The liquidator shall, from the date of appointment, have the following duties:

Cap. 212

- (a) take into custody or keep under control all the properties and affairs of a bank or financial institution under liquidation;
- (b) file a notice of his appointment in a format prescribed under the Companies Act to the Registrar of Companies within fourteen days;
- (c) within thirty days, publish in at least two newspapers of wide circulation in the United Republic, a notice to-
 - (i) inform creditors and debtors of his appointment;
 - (ii) require creditors to submit claims within thirty days from the date of the notice;
 - (iii) require debtors to repay their debts and surrender any property of a bank or financial institution under liquidation in their possession within thirty days from

the date of the notice; and

(iv) require customers who have valuables in the safe custody of a bank or financial institution to confirm and collect their valuables;

- (d) prepare a list of all assets of a bank or financial institution under liquidation;
- (e) prepare a statement of affairs of a bank or financial institution under liquidation which shall be subject to external audit;
- (f) prepare a register of creditors of a bank or financial institution under liquidation showing their personal particulars, nature and extent of liability;
- (g) file semi-annual returns on liquidator's statement of receipts and payments with the Registrar of Companies in the form prescribed under the Companies Act; and
- (h) discharge any other duties as may be required for liquidation of a bank or financial institution.

Cap. 212

Liquidation
plan

7.-(1) The liquidator shall, within thirty days from the date of appointment, prepare a liquidation plan for liquidation of a bank or financial institution.

(2) The liquidation plan referred to under subregulation (1) shall contain the following particulars:

- (a) detailed background information of a bank or financial institution under liquidation;
- (b) detailed description of the assets and liabilities;
- (c) projected income and expenditure;
- (d) detailed description as to the classification of claims and priority order of payment;
- (e) details of assets, projected sale of assets and projected loan recoveries for the next ninety days from the date of the plan;
- (f) details of liabilities and projected payment to depositors and creditors in the next ninety days from the date of commencement of the plan;
- (g) liquidation costs and expenses;
- (h) list of existing contracts to be continued or terminated;

- (i) details of existing and potential litigations and related costs; and
- (j) any other information as the liquidator may deem necessary.

(3) The liquidation plan referred to under subregulation (1) shall be reviewed on quarterly basis.

Proof of debts

8.-(1) The claims referred to under regulation 6(c)(ii) shall be in the form set out in the Schedule.

(2) The liquidator may extend the period prescribed under regulation 6(c)(ii), where he is satisfied that a creditor has good reasons for not being able to submit his claim within the prescribed time, provided that the extension period shall not exceed thirty days.

(3) The liquidator may request any document or other evidence to be produced by the creditor where necessary for the purposes of substantiating the whole or part of the claim.

(4) A claim may be admitted for payment of liquidation proceeds or rejected for the whole or part of the amount claimed by the creditor.

(5) Where the liquidator rejects a claim in whole or in part, he shall within seven days from the date of submission of the claim, communicate his decision to the creditor in writing stating the reasons thereof.

(6) Where a creditor is dissatisfied with the liquidator's decision under subregulation (4), he may within twenty-one days of receiving the decision, apply to the Court of competent jurisdiction for necessary orders.

(7) Creditors or an authorised representative shall be allowed to inspect the credit register and may, upon inspection, request the liquidator to amend the information contained therein.

Notification and closure of correspondent bank accounts

9.-(1) The liquidator shall notify correspondent banks and organisations which provide cards and wire transfer settlements that, any operations of correspondent accounts shall not be carried out without his written approval.

(2) The liquidator shall instruct correspondent banks to transfer available balances maintained in a bank or

financial institution's correspondent accounts to the liquidation account at the Bank.

Creditors meetings

10.-(1) The liquidator may at any time, convene a meeting of creditors in a manner that is deemed appropriate to discuss the progress of liquidation.

(2) Where a meeting under subregulation (1) has been convened, the creditors shall appoint at least five representatives among the creditors to form the Creditors Committee who shall contact and assist the liquidator where necessary.

Payment to creditors and ranking of claims

11.-(1) The liquidator shall utilise the amounts realised under liquidation to pay claims, other than secured claims, to the extent of any security, in the following order:

- (a) administrative expenses;
- (b) any deposit liability of a bank or financial institution under liquidation in excess of the protected deposits paid by the Fund;
- (c) any general or senior liability of a bank or financial institution under liquidation;
- (d) any obligation subordinated to depositors or general creditors; and
- (e) any obligation to shareholders.

(2) Claims with the same priority shall rank equally and abate in equal proportions.

Closure of liquidation

12.-(1) The liquidation process shall be deemed to be complete where-

- (a) payment is made against all claims of a bank or financial institution under liquidation; or
- (b) a bank or financial institution under liquidation has pending claims but has no assets to settle pending claims.

(2) Subject to subregulation (1)(b), a bank or financial institution under liquidation shall be considered to have no assets where-

- (a) all assets have been sold;
- (b) the market value of unsold assets is zero; and
- (c) loans and other assets cannot be recovered.

(3) Upon completion of the liquidation, the liquidator shall-

- (a) prepare a liquidation report which includes:
 - (i) information regarding all assets realised by the liquidator since commencement of the liquidation;
 - (ii) information regarding payment against claims of depositors and other creditors;
 - (iii) valuer's opinion on the liquidator's conclusion that the market price of unrealised assets is zero;
 - (iv) details on outcome of recovery measures, if any; and
 - (v) information regarding unclaimed valuables under a bank or financial institution's safe custody.
- (b) surrender to the Bank unclaimed valuables under a bank or financial institution's safe custody, if any;
- (c) prepare an audited statement of income and expenses, sources and uses of funds in respect of a bank or financial institution under liquidation;
- (d) publish information referred to under subregulation 3(c) in English and Kiswahili in at least two newspapers of wide circulation in the United Republic.

(4) The liquidator shall submit to the Bank a liquidation report and audited statement of income and expenses, sources and uses of funds during the period of liquidation within thirty days upon completion of the liquidation process.

(5) Where the Bank is satisfied that the liquidation report and audited statement presents a correct state of affairs of the liquidation, the Bank shall release the liquidator and issue a certificate of release.

(6) Where the Bank is dissatisfied with the information submitted under subregulation (5), it shall withhold the certificate of release and request the liquidator to submit additional information or take any other as it may deem necessary.

(7) The liquidator shall, upon obtaining a certificate

issued under subregulation (5), inform the Registrar of Companies who shall immediately strike off the name of the company from the Register of Companies.

PART III
MISCELLANEOUS PROVISIONS

Information
sharing

13. The Bank and the liquidator shall put in place information sharing arrangement during liquidation.

Liquidation
expenses

14.- (1) Liquidation expenses shall be covered by the estate of a bank or financial institution under liquidation.

(2) Where liquidation proceeds are insufficient to cover administrative expenses incurred by the liquidator, the Bank shall reimburse the deficit to the liquidator.

Liquidato
r's
accounta
bility

15. Where the Bank is satisfied that the liquidator has not performed his statutory duties, the Bank may inquire into the matter and take any action as it may deem necessary.

SCHEDULE

(Made under regulation 8(1))

PROOF OF DEBT

Name of the Liquidator:

.....

Name of a bank or financial institution under liquidation:

Effective date of liquidation:

1.	Name of the Creditor.	
2.	Address of the Creditor.	
3.	Total amount of claim, including interest, as at the date a bank or financial institution was placed under liquidation.	
4.	Details of any documents by reference to which the debt can be substantiated (Please attach all necessary documents). NB: The liquidator may request for any document or evidence to substantiate the claim.	
5.	If total amount above includes interest, please state amount of interest claimed.	
6.	If the total amount shown above includes tax, please show: (a) the amount of tax; and (b) the amount of claim net of tax.	
7.	State the particulars of how and when the debt was incurred.	
8.	Where there is any security held by a bank or financial institution under liquidation, state the particulars thereof including: (a) type of the security held; (b) the value of the security; and (c) the date when the security was pledged.	

Signature :

Creditor or an authorised person to act on his behalf.

Note: In case of an authorised representative, please attach evidence of authorisation.

Name of the creditor or an authorised person:

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Received from:
Amount claimed:
Date:
Name of the Liquidator:

Dodoma,
5th February, 2024

EMMANUEL M. TUTUBA,
Governor