

LEGAL ALERT

ZAMBIAN CENTRAL BANK PRESCRIBES GUIDELINES FOR THE FIT AND PROPER ASSESSMENT FOR THE APPOINTMENT OF SHAREHOLDERS, DIRECTORS AND SENIOR MANAGEMENT IN ENTITIES UNDER ITS SUPERVISION



Introduction

The significance of fit and proper assessments extends beyond regulatory obligations, serving as indispensable tools for fostering good governance, mitigating risks, and safeguarding the overall well-being of the banking and financial services sector.

Commencement and Objectives

On December 29, 2023, the Bank of Zambia introduced guidelines (the “**Guidelines**”) for fit and proper assessment. The primary objective of the Guidelines is to strengthen the governance framework of regulated entities and harmonize the requirements of the fit and proper assessment applicable to regulated entities.

To whom the Guidelines apply

The Guidelines apply to all regulated entities under the supervision of the Bank of Zambia. Specifically, the Guidelines apply to financial service providers regulated under the Banking and Financial Services Act, 2017 and entities designated to operate payment systems or conduct payment systems business under the National Payment Systems Act, 2007.

The positions subjected to the fit and proper assessment by the Bank of Zambia include significant shareholders (i.e. those holding a direct or indirect shareholding or beneficial interest of ten (10) per cent or more of the share capital of a regulated entity) and any other shareholder that the Bank of Zambia may deem to exert control, either practically or legally. This evaluation also extends to directors, chief executive officers, chief financial officers, chief information technology officers, chief risk officers, heads of compliance, heads of internal audit, company secretaries, and other positions with responsibilities similar to those outlined above.

Main aspects of a fit and proper assessment

The Bank of Zambia considers three main aspects during the fit and proper assessment: the probity, personal integrity, and reputation of the proposed individual, followed by their competence and capability, and lastly, their financial integrity. These assessment points aim to ensure a comprehensive evaluation of individuals in leadership roles.

The fit and proper the assessment

itself is a two-tier process which starts with the regulated entity and is then completed by the Bank of Zambia. The regulated entity has to conduct a fit and proper assessment of the person proposed to hold a key or significant role prior to submitting the application for the appointment of the proposed person to the Bank of Zambia. For this reason, a person who is the subject of a fit and proper assessment is required to submit to the regulated entity all information and requirements to complete the assessment. The information required includes but is not limited to academic and professional qualifications. It is important to also note that any adverse events or circumstances that could potentially alter the initial fit and proper assessment of a person need to be communicated to the regulated entity who should in turn communicate the information to the Bank of Zambia.

Procedurally, the application process involves submitting the prescribed Directors Questionnaire, modified according to the role being vetted, along with the Vital Statistic Form and supporting documentation as outlined in the guidelines. Thereafter, the Bank of Zambia communicates its decision to the regulated entity once all documentation has been submitted and its internal vetting process is complete.

What is expected of the Regulated Entities?

The board of directors of a regulated entity has specific obligations under the Guidelines. These obligations include the need to ensure that the regulated entity has appropriate policies and procedures to guarantee that persons appointed or reappointed to key or significant roles continue to meet the fit and proper requirements on an on-going basis.

Embodying the essence of governance, the board of directors of regulated entities holds the pivotal responsibility for implementing the Guidelines. They are tasked with establishing policies and procedures to ensure that appointed individuals meet the fit and proper assessment criteria. These policies are expected to include provisions allowing employees to disclose any improper conduct within the institution to the board, committees within the institution, or even the Bank of Zambia.

Conclusion

It could be asserted that the Guidelines cast a wide net, aspiring to forge a strong and dependable financial landscape that serves the interests of both institutions and their stakeholders. Therefore, it is imperative that all financial institutions and persons intended to be appointed or reappointed in key or significant positions familiarize themselves and comply with the provisions outlined under the Guidelines.

We hope you found this alert useful. Please contact our Banking and Finance Partner and Associate, Lupiya Simusokwe at LSimusokwe@corpus.co.zm and Sankanaji Mubanga-Chilufya at SMubanga@corpus.co.zm respectively, if you have any questions relating to this legal alert.



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