

(f) the decision of the Institute was unreasonable in all circumstances of the case and in such case, the Board shall consider the penalty imposed on the member against whether—

- (i) the contravention is minor;
- (ii) the consequence from the violation is minor;
- (iii) the member took prompt action to correct the contravention;
- (iv) the contravention was accidental; or
- (v) the member voluntarily disclosed the contravention to the Institute.

PART III—GENERAL PROVISIONS

Extension of time 11. Notwithstanding anything contained in these Regulations, where a time period is specified under the Regulations or in any request by the Board for an act to be done or a condition to be fulfilled, the person affected may request for an extension of such time in writing to the Board and the Board may grant such extension of time as it considers appropriate.

Invalidity affecting enforceability 12. Where the regulations are unenforceable due to changes in professional standards or any pronouncements from International Federation of Accountants, the section affected shall be suspended and the new standard or pronouncement shall prevail.

Made this 18th day of November, 2016.

GOODALL E. GONDWE
*Minister of Finance, Economic
Planning and Developmen*

(FILE NO: D53:06)

GOVERNMENT NOTICE NO. 5

PUBLIC ACCOUNTANTS AND AUDITORS ACT

(CAP. 53:06)

REVIEW OF STATUTORY FINANCIAL STATEMENTS AND FINANCIAL REPORTS OF PUBLIC INTEREST ENTITIES REGULATIONS, 2017

ARRANGEMENT OF REGULATIONS

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IN EXERCISE of the powers conferred by Section 57 of the Public Accountants and Auditors Act, I, GOODALL EDWARD GONDWE, Minister of Finance, Economic Planning and Development, on recommendation of the Malawi Accountants Board, make the following Regulations—

PART I—PRELIMINARY

1. These Regulations may be cited as the, Review of Statutory Financial Statements and Financial Reports of Public Interest Entities Regulations, 2017. Citation
2. In these Regulations unless the context otherwise requires— Interpretation

“Committee” means the Compliance, Regulation, Legal and Advisory Committee of the Board;

“public interest entity” means—

 - (a) an entity which is of significant public interest because its business, its size, its number of employees or its corporate status is such that it has a wide range of stakeholders; and
 - (b) includes but is not limited to the following credit institutions, insurance companies, banks, investment firms, pension firms, parastatals and listed companies;

“Public” means a person who uses available services for purposes which are outside the person’s trade, business or profession; and

“Review” means a service under which an accountant obtains limited assurance that there are no material modifications that need to be made to an entity’s financial statements for them to be in conformity with the applicable financial reporting framework such as International Financial Reporting Standards or Generally Accepted Accounting Practices and also in conformity with the Acts under which they are established.

PART II—REVIEW FUNCTIONS AND PROCESSES

- Objectives of the Regulations 3. The objectives of these Regulations are to monitor compliance of public interest entities with International Financial Reporting Standards and listing requirements.
- Mandate of the Board 4.—(1) The Board shall review statutory financial statements and financial reports of public interest entities.
- (2) The Board shall authorise the Committee to carry out the reviews.
- (3) The Board may sign a Memorandum of Understanding with other regulators to provide the Board with evidence of public interest entities compliance with listing requirements.
- Functions of the Committee 5. The Committee or any person authorised by it shall—
- (a) monitor the compliance of public interest entities with listing rules and requirements of other regulators;
- (b) review the statutory financial statements and financial reports of a public interest entity and the effective implementation of any International Financial Reporting Standards and make recommendations to the Board; and
- (c) advise the Board in relation to a public interest entity's compliance with International Financial Reporting Standards, the Companies Act and standards enforced by different regulators.
- Cap 46:03
- Objectives and scope of reviews 6.—(1) The objectives of reviews are to—
- (a) improve standards of statutory financial statement and financial reporting by public interest entities; and
- (b) monitor compliance of public interest entities with the relevant professional standards and listing requirements in compiling statutory financial statements and financial reports.
- (2) The Board shall ensure that—
- (a) public interest entities comply with relevant professional standards in a manner which is most cost effective without compromising on thoroughness of the financial reporting processes;
- (b) reviews meet the requirements of the regulatory control aspects under the Act, the Malawi Stock Exchange and the requirements of other regulators; and
- (c) the outcome of the reviews is an on-going pursuit of quality improvement by the public interest entities to protect the interests of the public.
- Reviewers 7. The Board shall employ qualified professional accountants, on a full time or part time basis, who shall conduct reviews.
- The review process 8. The review of statutory financial statements and financial reports shall be conducted as follows
- (a) the Board shall conduct reviews at least once in every three to

five years, however, the Board may conduct reviews whenever it considers necessary;

(b) the Board shall sample the public interest entities and schedule review date eight weeks in advance;

(c) the reviewer shall request pre-review information from public interest entities;

(d) the reviewer shall carry out the review;

(e) the reviewer shall present a formal review report to the Committee on an anonymous basis at quarterly meetings of the Committee in order for the Committee to make a recommendation to the Board on findings of the review;

(f) where the Committee agrees that additional information is required, the Committee may request the information from the Malawi Stock Exchange and any regulating body of the relevant entity being reviewed;

(g) the Committee shall submit its written report to the Board;

(h) the report shall include an explanation of the information considered, the basis for conclusion and recommendations regarding any remedial action;

(i) the Board shall advise the Committee what action, if any, has been taken after considering the report of the Committee; and

(j) the Board shall communicate its final decision to the public interest entity and its auditor through the Malawi Stock Exchange and the regulator regulating that public interest entity.

9.—(1) The reviewer shall summarise, document and submit the results of the statutory financial statements and financial reports reviews to the Committee for evaluation. Reporting and evaluation

(2) The Committee shall evaluate the results and consult the reviewer, where necessary, in order to make necessary recommendations to the Board.

(3) The Committee shall reach one of the following conclusions and make the following recommendations to the Board—

(a) satisfactory which means that the public interest entity can be reviewed in the next cycle;

(b) not satisfactory leading to the conduct of follow up reviews until a satisfactory decision is reached; or

(c) investigation referral leading to a disciplinary action by the Board or Malawi Stock Exchange or the regulator regulating that public interest entity.

(4) The Committee shall make a recommendation for referral to investigation where —

(a) the public is at risk;

(b) a re-review indicates failure to implement corrective action;

(c) there is a flagrant disregard of professional standards; or

(d) the public interest entity refuses to cooperate in the review process.

Re-review 10.—(1) A re-review shall focus on assessing how the identified deficiencies have been addressed by a public interest entity in the interim since the initial review.

(2) A re-review of statutory financial statements and financial reports of a public interest entity shall be done within six months of the first review.

(3) The Committee shall make a new recommendation to the Board on the basis of the results of the re-review;

(4) If after the re-review the public interest entity does not address all identified deficiencies, the Board shall take disciplinary action against the public interest entity in consultation with the regulator regulating that public interest entity.

Compliance 11.—(1) The Board shall continue to monitor compliance of the public interest entity with listing requirements, other regulatory requirements, International Financial Reporting standards reporting requirements and the Laws of Malawi.

(2) Where a public interest entity does not comply with the listing requirements, other regulatory requirements, International Financial Reporting Standards reporting requirements and the Laws of Malawi, the Board shall make recommendations to the public interest entity's regulator to undertake disciplinary proceedings against the entity and impose sanctions or penalties as may be necessary.

Fees 12.—(1) The Board shall determine fees for the conduct of reviews on an annual basis.

(2) The fees shall be based on a percentage of audit fees as determined by the Board from time to time.

(3) The Board shall work with other regulators to impose the consequences of non-payment of fees by a public interest entity.

Confidentiality 13.—(1) The Committee shall keep confidential all matters that are referred to it.

(2) Any information that comes to the attention of the Committee as a result of the activities of the Committee shall not be used for any other purpose other than that required under a written law.

(3) The Board shall keep all matters referred to it confidential unless and until there is a requirement to disclose the information by law.

(4) The Board may refer a matter to another regulator where there is *prima facie* evidence of something relevant to the purview of that regulator.

(5) The Board shall inform the relevant public interest entity of its intention to refer a matter to that entity's regulator.

(6) The Committee may share such information with the Practice Review Committee responsible for Practice Reviews which is responsible for monitoring of compliance with audit standards.

14. Where there is a conflict of interest, individuals who are invited to join the Committee shall recuse themselves from serving in the Committee. Conflict of Interest

15. The Committee, any committee member, any officer, employee of the Board or Malawi Stock Exchange shall not be liable to anyone in respect of anything done in good faith in exercise or performance of a power or duty conferred or imposed by, or under these regulations or the listings requirements. Limitation of liability

16. The Board shall indemnify the Committee, any committee member, and any officer or employee of the Board against any claim of any nature which may be made against them, any costs on an attorney and client scale which may be incurred by any of them in defending any claim which may be brought against them, arising out of the exercise or performance, in good faith, of power or duty conferred or imposed on them by, or under these Regulations or the listing requirements. Indemnity

PART III—GENERAL PROVISIONS

17. Notwithstanding anything contained in these regulations, where a time period is specified under the Regulations or in any request by the Board for an act to be done or a condition to be fulfilled, the person affected may request for an extension of such time in writing and the Board may grant such extension of time as it deems fit. Extension of time

18. Where the regulations are unenforceable due to changes in professional standards or any pronouncements from International Federation of Accountants, the section affected shall be suspended and the new standard or pronouncement shall prevail. Invalidity affecting enforceability

Made this 18th day of November, 2016.

(FILE NO: D53:06)

GOODALL E. GONDWE
*Minister of Finance, Economic
Planning and Development*

