



**GUIDELINE No 1, 2018
ON VOLUNTARY LIQUIDATION**

**SUPERVISION DEPARTMENT
March, 2018**

GUIDELINE No 1, 2018 ON VOLUNTARY LIQUIDATION

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CHAPTER I PRELIMINARY

- 1.1 **Title** – Guideline on Voluntary Liquidations
- 1.2 **Authorization**- This Guideline is issued under section 154 of the Banking Act, 2012 which empowers the Bank of South Sudan to issue guidelines to be adhered to by financial institutions in order to maintain a stable and efficient banking and financial system.
- 1.3 **Application**– This Guideline applies to all financial institutions licensed under the Banking Act, 2012
- 1.4 **Definitions** – Terms used in this Guideline are as defined in the Banking Act, 2012.

“Solvency “means the ability of an institution to have enough assets to cover its liabilities and obligations.

CHAPTER II STATEMENT OF POLICY

- 2.1 **Purpose** - This Guideline has been prepared pursuant to section 22 (1) of the Banking Act, 2012 to assist institutions intending to voluntarily liquidate.
- 2.2 **Scope** - This Guideline provides clear regulatory requirements that should be fulfilled prior to an institution being granted an approval to carry out voluntary liquidation.
- 2.3 **Responsibility** - It is the responsibility of the shareholders and the directors to ensure that the provisions of this guideline are adhered to by the financial institutions intending to voluntarily liquidation.

CHAPTER III SPECIFIC REQUIREMENTS

3.1 Application and Approval Procedures

- a) Every financial institution seeking to voluntarily liquidation shall prior to commencing the voluntary winding up process apply and obtain the prior written approval of the Bank of South Sudan. Financial Institutions should submit their application using the Form No 1.Attached under this Guideline.

- b) All applications duly completed together with the necessary attachments specified in section 3.2 of this Guideline should be submitted to: The Director General, Bank Supervision Department, Bank of South Sudan, P.O. Box 136- Juba at least 21 days prior to the date appointed to commence voluntary winding up.
- c) Upon receipt of the application for voluntary winding up together with the attachments thereto, Bank of South Sudan will appraise the application.
- d) The Bank of South Sudan will only approve an application submitted under this section if it satisfied as to the solvency of the financial institution. The financial institution's board of directors will have to submit to the Bank of South Sudan a declaration to the effect that they have made a full inquiry into the affairs of the financial institution, and that, having done so, they have formed the opinion that the financial institution will be able to pay its debts in full within such period not exceeding twelve months from the commencement of the winding up as may be specified in the declaration. Such declaration must embody a statement of the financial institution's assets and liabilities as at the latest practicable date before the making of the declaration and must be signed by all members of the board.
- e) An institution granted approval by the Bank of South Sudan to liquidate voluntarily shall have its license surrendered. From the date of receiving the approval of the Bank of South Sudan, an institution is to cease all its operations except such activities as are incidental to the orderly realization, conservation and preservation of its assets and settlement of its obligations.
- f) Upon receipt of Bank of South Sudan approval to voluntarily wind up operations, the financial institution is required to send a notice of voluntary liquidation, by registered mail, or publish in new paper to all its depositors, creditors and any persons otherwise entitled to the funds or property held by the institution as a trustee, lessor of a safe deposit box.
- g) The notice should also be posted conspicuously on the premises of each office and branch of the financial institution and in addition thereto, the institution should publish the notice in at least two daily newspapers with national circulation.

- h) A copy of the notice shall be submitted to the Bank of South Sudan.
- i) Any financial institution being voluntarily wound up shall be required to first discharge its liability to its depositors and thereafter rank all other creditors in accordance with the provisions of *Chapter 1X Section 327 of the Companies Act, 2012*.
- j) An approval granted by the Bank of South Sudan under this section shall not prejudice the rights of a depositor or other creditor of the institution to payment in full of a claim nor the right of the owner of funds or other property held by the institution to the return thereof.
- k) Any funds payable to a depositor or other creditor who has not claimed them must be turned over to the Bank of South Sudan. This will also include any funds and property held by the liquidating institution that could not be returned to the owners. Any funds or property not claimed within the period of 12 (twelve) months shall be presumed to be unclaimed property.

3.2 Information Required

Any institution seeking to voluntarily wind up its operations should provide the following information and documentation to the Bank of South Sudan:

- a) The resolution of the Board of Directors of the institution sanctioning the voluntary liquidation of the institution;
- b) An extract of the minutes of shareholders meeting passing the resolution to voluntarily liquidate;
- c) A detailed plan, including the relevant timeframes of the completion of voluntary liquidation in an orderly manner;
- d) Confirmation from the directors, auditors and liquidators that the financial institution has ceased to carry on any banking business except in so far as may be required for the orderly winding up of the institution;
- e) A balance sheet, as at the date of the commencement of the liquidation of the financial institution, submitted by the liquidator reflecting all existing assets and liabilities of the financial institution;

- f) A certified listing of all unresolved, unsatisfied or un-discharged complaints or legal actions against the financial institution or instituted by the financial institution.
- g) Quarterly financial reports of assets and liabilities to be furnished to Bank of South Sudan by the liquidator including any information that the Bank of South Sudan may require. The reports may also include schedules on paid claims, pending claims, and collected debts of the winding up financial institution.

CHAPTER IV: Remedial Measures

- 4.1 Where the Bank of South Sudan finds that the assets of any financial institution whose voluntary liquidation has been authorized under this guideline shall not be sufficient for the full discharge of all the finance institution's obligations or that completion of the voluntary liquidation is unduly delayed, it shall appoint liquidator take possession of the institution and commence proceedings on its compulsory liquidation.
- 4.2 The liability of shareholders of the institution for unpaid share capital of the institution shall continue until the end of the liquidation.
- 4.3 The Bank of South Sudan shall revoke the financial institution's license once the liquidator has confirmed that the liquidation is complete and all required documentation has been received.

CHAPTER V: EFFECTIVE DATE

The effective date of this Guideline shall be -----

ENQUIRIES

Enquiries on any aspect of this guideline should be referred to:
The Director General,
Bank Supervision Research and Statistics,
Bank of South Sudan,
P.O. Box 136
Juba



FORM No 1.

APPLICATION FOR FIANNCIAL INSTITUTION TO VOLUNTARITY LIQUIDATE

1. Name of the institution
.....
2. Proposed date of commencement to liquidate voluntary
.....
3. Date of last license issued by the Bank of South Sudan
.....
4. Please provide full details for the reasons for opting to wind up operations.....
5. Has the institution provided the Bank of South Sudan with all the required information as provided for under this guideline.....

6. DECLARATION OF SOLVENCY

We the Board of Directors, of....., being all the board members do solemnly and sincerely declare that we have made a full inquiry into the affairs of this institution, and that, having so done, we have formed the opinion that this financial institution will be able to pay its debts in full within a period of..... months from the commencement of the winding up, and we append a statement of the Company's assets and liabilities as at....., being the latest practicable date before the making of this declaration. And we make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of the Oaths and Statutory Declarations Act.

7. DECLARATION

We, the undersigned, declare that to the best of our knowledge and belief, the information contained herein and any attachments is complete and accurate.

a) Chairman of the Board of Directors
(Name).....

Signature..... Date.....

b) Director
(Name).....

Signature.....Date.....

c) Director
(Name).....

Signature.....Date.....

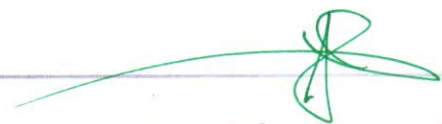
WITNESSED BEFORE ME:

SIGNED..... (Witness)

COMMISSIONER FOR OATHS/ MAGISTRATE

Note: This application must be accompanied by all the relevant documents and requirements, as detailed in Section 3.2 of this Guideline. This Form must also be signed by all members of the Board of Directors.

Issued under my hand in Juba on this 27 day of March in the year 2018



**Hon. Othom Rago Ajak
Governor
Bank of South Sudan (BSS) - Juba**

