

TONGA GOVERNMENT GAZETTE SUPPLEMENT EXTRAORDINARY

No. 3

THURSDAY 9TH, JULY

1998.

FINANCIAL INSTITUTIONS REGULATIONS 1997

In exercise of the powers conferred by section 21 of the Financial Institutions Act 1991. His Majesty in Council has made the following regulations –

1. These Regulations may be cited as the Financial Institutions Regulations 1997.

DEFINITIONS

2. In these Regulations, unless the context otherwise requires –

“Act” means the Financial Institutions Act 1991

RESERVE BANK FINDINGS ON APPLICATION FOR LICENCE

3. The findings of the Reserve Bank for the purposes of section 7 of the Act, must include findings that –

- (a) the applicant has complied with all requirements to enable it to carry on business in the manner proposed;
- (b) the applicant is in a suitable form to hold a licence under the Act;
- (c) having regard to the capital, financing, organisation, administrative ability and integrity of the applicant, there is no foreseeable risk to the public if the applicant is granted a licence to conduct banking business;
- (d) economic conditions and the public interest justify the granting of a licence to the applicant.

EFFECT OF NOTICE OF INTENTION TO REVOKE LICENCE

4. When giving notice of intention to revoke a licence to carry on banking business under section 8 of the Act -

- (a) the licensee shall be given reasons why the Reserve Bank has recommended that the licence be revoked;
- (b) the licensee shall within 14 days of the date of the notice, submit reasons why the licence should not be revoked.

EFFECT OF REVOCATION OF LICENCE

5. If a licence is revoked under section 8 of the Act -

- (a) the Reserve Bank shall cause notice of the revocation and the date that the revocation took effect, to be published in the Gazette;

- (b) the revocation does not, of itself, prejudice or affect the enforcement of any right, claim or obligation against the financial institution whose licence is revoked;
- (c) the financial institution shall return its licence forthwith to the Ministry of Finance.

RESERVE BANK APPOINTED ADVISOR

6. The following provisions apply if the Reserve Bank appoints a person under section 15(2)(b) of the Act to advise a licensed financial institution on the proper conduct of its business -

- (a) the appointment must be in writing;
- (b) the financial institution must be notified in writing of the appointment.
- (c) the appointee must in the exercise of his functions be subject to the direction and control of the Reserve Bank.

RECORDS

7. (1) It shall be sufficient compliance with section 16 of the Act if a copy of the document has been made by the financial institution on microfilm, microfiche, tape, disc, or electronic or photographic storage media, and is retained by the financial institution for the same period as that document is required to be retained pursuant to section 16.

(2) Notwithstanding subregulation (1), no document shall be destroyed at any time within 2 years after the date thereof in the case of documents payable on demand or from the due date thereof in the case of all other documents.

(3) Notwithstanding the provisions of any other written law, a copy of a document made pursuant to this regulation shall be admissible in evidence in any legal proceedings to the same extent as the document of which it is a copy would have been admissible.

Made this 24th day of October, 1997.

Clerk to Privy Council