

**BANKS AND DEPOSIT COMPANIES (REPORTING
ACCOUNTANTS) (FACTS AND MATTERS OF MATERIAL
SIGNIFICANCE) REGULATIONS 2006**

BR 59/ 2006

BANKS AND DEPOSIT COMPANIES ACT 1999

1999 : 40

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The Minister of Finance, in exercise of the powers conferred by section 60(1) of the Banks and Deposit Companies Act 1999 and acting on the advice of the Authority, makes the following Regulations:

Citation and commencement

1 These Regulations may be cited as the Banks and Deposit Companies (Reporting Accountants) (Facts and Matters of Material Significance) Regulations 2006 and shall come into operation on the 15th day of July, 2006.

Interpretation

2 In these Regulations —

“Act” means the Banks and Deposit Companies Act 1999;

“reporting accountant” means an auditor or an accountant who, under section 39(2) or 46(4)(d) of the Act as the case may be, is under a duty to give notice to the Authority of specified facts or matters.

Facts and matters of material significance

3 (1) For the purposes of sections 39(2) and 46(4) of the Act, where a reporting accountant —

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- (a) identifies a material misstatement in the financial statements resulting from fraud, error or illegal acts or the consequences of them;
- (b) concludes that there is substantial doubt as to the ability of the institution to continue as a going concern for a period of one year from the balance sheet date;
- (c) identifies adjustments to the financial statements which individually or in aggregate indicate to him that the previous year's audited annual financial statements or the current year's unaudited interim financial statements, prepared according to generally accepted accounting principles issued to the shareholders were materially misstated, or that the capital adequacy ratio previously calculated for the previous financial year or the current or prior interim period would fall below that set as a minimum by the Authority;
- (d) identifies a material weakness in internal control;
- (e) has unresolved disagreements with management pertaining to the application of generally accepted accounting principles that could reasonably be expected to lead in the future to material misstatements of the annual or interim financial statements, prepared according to generally accepted accounting principles to be issued to the shareholders in the ensuing financial year;
- (f) identifies any evidence of deliberate attempts by a chief executive or other senior executive to mislead the Authority through the provision of materially false or misleading information; or
- (g) identifies evidence of fraud or attempted fraud by a chief executive or other senior executive, or has concerns of such a serious nature as to damage materially his confidence in the integrity of the senior management of the institution,

then those facts and matters are of material significance for the discharge, in relation to the institution, of the Authority's functions under the Act.

(2) For the purposes of paragraph (1)(d), "material weakness in internal control" means a deficiency in which the design or operation of one or more of the internal control components of the institution does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the

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financial statements being audited may occur and fail to be detected within a timely period by employees in the normal course of performing their assigned functions.

Made this 21st day of June, 2006

Minister of Finance