BANK OF GUYANA

SUPERVISION GUIDELINE NO. 11

ISSUED UNDER THE AUTHORITY OF THE
FINANCIAL INSTITUTIONS ACT 1995
(ACT NO. 1 OF 1995)

INTERVENTION POLICY

January 3, 2011

TABLE OF CONTENTS

INTERVENTION POLICY

1.0 Introduction

Any references to institution(s)/financial institution(s) in this guideline relate to licensed financial institution(s).

1.1 The Bank of Guyana Act 1998 and the Financial Institutions Act 1995 provide the Bank of Guyana (the Bank) with the responsibility and authority to regulate and supervise the activities of entities engaged in banking and financial businesses in Guyana. These Acts also vest the Bank with power of intervention to address identified areas of weaknesses in the financial condition or operational practices of any licensed financial institution or their non-compliance with applicable laws, regulations, guidelines and supervisory directives.

1.2 The Bank, as part of its policy to increase the awareness of its intervention processes in the supervision and regulation of licensed financial institutions and the transparency of those processes, hereby issues this Supervision Guideline describing the steps that may be taken to address situations that give the Bank cause for concern.

1.3 The objective of the intervention process is to identify areas of concern at an early stage and to intervene effectively to minimize problems and likely losses to depositors and other creditors, as well as to maintain the overall stability of the financial sector.

1.4 This Guideline provides an outline of the intervention processes and summarizes the circumstances under which certain intervention measures may be expected. It would, over time, be updated and expanded, where appropriate, on the circumstances under which action may be taken.

1.5 The Guideline outlines the course of action licensed financial institutions can normally expect from the Bank. However, circumstances may vary significantly from case to case, and this Guideline should not be interpreted as limiting the scope of action that may be taken by the Bank in dealing with specific problems or licensed financial institutions. Moreover, it must be understood that this Guideline is just a gauge as to what may be generally expected from the Bank. It is important to note that the intervention processes do not constitute a rigid regime under which every licensed financial institution or every situation is necessarily addressed with a predetermined set of actions. While the Guideline establishes the framework, the licensed financial institutions should be aware that the Bank in the exercise of its statutory responsibility might effect decisions outside of this framework if it considers that the public interest would be better served, and those decisions would be exercised within the confines of the enabling legislations.

1.6 The Guideline is issued as part of the Bank's risk-based supervision approach and becomes effective on January 3, 2011.

2.0 Stages of intervention

2.1 The Bank has indentified four Stages of intervention, each of which has specific actions. Where the Bank is of the opinion that the risk management practices, capital, liquidity, and earnings of the licensed financial institution are adequate to enable it to withstand business and economic shocks, it may not be necessary to implement Stage One to Stage Four. Consequently actions by the Bank would be as outlined at 2.2 below.

2.2 No problems/Normal activities

No problems/Normal activities
Routine supervisory and regulatory activities pursuant to the mandate of the Bank. In addition, the Bank conducts research and analyzes industry-wide issues and trends.
Bank's Activities
Licensing of financial institutions to carry on banking or financial business • review and assess all relevant documents and information • assess the fit and proper suitability of applicants • consult with the Minister of Finance. Review and assess wide range of applications and requests for regulatory consents required by statutes including • corporate reorganizations • changes in ownership • acquisitions of other financial institutions • transfers of business • opening branches • altering location of existing branches • reduction in or impairment of capital • mergers or amalgamation with any other company • exemption from statutory lending limits Ongoing monitoring of licensed financial institutions via information obtained from statutory financial and prudential reporting requirements. • assess compliance with statutory and other regulatory requirements • assess financial situation and operating performance. Periodic on-site inspections of licensed financial institutions as required and consistent with the

practice of risk-based supervision

- inform management and board of directors of findings
- management requested to provide copy of report to external auditors
- require that concerns be addressed by financial institutions
- monitor remedial measures if and as required.
- assess compliance with legal and prudential requirements.

2.3 Stage One – Early warning

Early warning

Bank is aware of deficiencies/problems that if not immediately addressed could lead to the development of problems described at Stage Two. These deficiencies/problems include:

(a) deficiencies in policies or procedures; or
(b) the existence of practices, conditions and circumstances that could lead to deterioration in the financial condition of the licensed financial institution. These deficiencies may be evidenced by:
   (i) breaches of statutory and regulatory requirements
   (ii) declining asset quality, liquidity or capital; or
   (iii) weaknesses in corporate governance or risk management

and can be remedied before they deteriorate into a Stage Two problem.

Bank's Activities/Intervention

Management and board of directors of the licensed financial institution are formally notified of concerns and are requested to take measures to rectify situation.

The Bank's examination report to the licensed financial institution identifies issues requiring remedial action, including deficiencies in governance practices and may establish timeframe within which the situation should be remedied.

The Bank requires reporting to measure results of remedial action.

Monitoring of remedial actions may involve requests for additional information and/or follow-up inspections.

The Bank may require that the external auditor of the licensed financial institution enlarge scope of audit of the institution's financial statements or that the external auditor perform other procedures, and prepare a report thereon. The Bank may assign cost of external auditor's work to the licensed financial institution.

2.4 Stage Two – Risk to financial viability or solvency

Risk to financial viability or solvency

Situation or problems that, although not serious enough to present an immediate threat to financial viability or solvency, could deteriorate into serious problems if not addressed promptly, as evidenced by:

- concerns over the institution's ability to meet capital requirements including the minimum 8% capital adequacy ratio
- continued deterioration in the quality or value of assets, or the profitability of the business undertaken by the licensed financial institution
- undue exposure to off-balance sheet risk
- poor earnings, operating losses or questionable reporting of earnings or expenses
- low level of accessible liquidity or poor liquidity management or deficiency in risk management procedures or controls (including material breaches of related Guidelines)
- failure to implement remedial action to address:
  - (i) deficiencies highlighted in report of examination
  - (ii) deficiencies discussed under Stage 1 – early warning
- other concerns arising from
  - (i) a financially weak or troubled owner
  - (ii) non-arm's length transactions with affiliates or other related parties
  - (iii) rapid asset growth relative to other financial institutions
  - (iv) continued non-compliance with regulatory requirements
  - (v) systemic issues

Bank's Activities/ Intervention

The Bank meets with management, external auditor of the financial institution and, if necessary, with the board of directors to outline concerns and discuss remedial actions. Management and board of directors are formally notified of the fact that the licensed financial institution is being placed on the regulatory 'watchlist'.

The Bank may request an undertaking from the controlling entity or shareholder to rectify areas of concern.

The Bank may appoint one or more persons whom it deems to be qualified to perform a particular inspection relating to the adequacy of the licensed financial institution's procedures for the safety of its depositors, other creditors or shareholders, or any other inspection that may be required in the public interest. The Bank may assign the cost of the inspection to the licensed financial institution.

Scope of on-site inspection and/or frequency of on-site inspections may be enlarged or increased depending on the risk profile of the licensed financial institution.

Monitoring of the licensed financial institution is enhanced as to frequency of reporting requirements and/or the level of detail of information submitted.

The licensed financial institution must produce a business/strategic plan acceptable to the Bank that reflects appropriate remedial measures that will rectify problems within a specified time frame.

Business restrictions appropriate to the circumstances may be imposed on the licensed financial institution via undertakings provided by the institution, restrictions on the institution's licence, or via direction of compliance or cease and desist orders covering such matters as:

- payments/transfers of dividends/profits or management fees
- lending or investment powers
- level of deposits and other indebtedness
- interest rates paid on deposits
- restriction on asset growth
- restriction on repossessed assets
- requirement for increased capital
- other restrictions tailored to circumstances

Progress of remedial measures is monitored via reporting requirements and/or follow-up examinations.

The Bank may advise the licensed financial institution of its dissatisfaction with the progress made in correcting the problem situation and may impose further directions.

The Bank may take temporary control of the assets of the licensed financial institution pursuant to section 33 A. of the Financial Institutions Act 1995.

2.5. Stage Three – Future financial viability in serious doubt

Future financial viability in serious doubt
Situations or problems described at Stage Two are at a level where, in the absence of mitigating factors such as immediate access to financial support from a financially strong parent company/Head Office, or unless effective corrective measures are applied promptly, they pose a material threat to future financial viability or solvency of the licensed financial institution.
Bank's Activities/ Intervention
Management, board of directors and external auditor of the licensed financial institution are informed of problems. A special audit may be required from an auditor other than the financial institution's own external auditor. The Bank may assign cost of external auditor's work to the licensed financial institution. Enhanced inspections may be carried out focusing on particular areas of concern such as asset or loan security valuations. Such examinations may involve any of the following: • substantial increase in sampling of credit files • more in-depth review of files • engagement of specialists or professionals to assess certain areas such as quality of loan security, asset values, sufficiency of loss provisions and reserves, etc. Depending on situation, staff from the Bank may be posted at the licensed financial institution to monitor situation on an ongoing basis. Business/strategic plan must reflect appropriate remedial measures that will rectify problems within a set time frame so as to avoid triggering impaired viability or impaired solvency procedures (See Stage Four). The Bank may order the licensed financial institution to increase its capital. Monitoring of licensed financial institution may be further enhanced as to frequency of reporting requirements and/or the level of detail of information submitted so as to monitor progress of remedial measures. Follow-up examinations may be carried out as required. Depending on circumstances, business restrictions may be enhanced or additional ones imposed on institution.

Depending on circumstances, pressures may be exerted on management and board of directors to restructure the financial institution or to seek out an appropriate prospective purchaser. The Bank may inform the licensed financial institution's home regulator or other host regulators accordingly. The Bank develops contingency plan in order to be able to take rapid possession of the licensed financial institution, pursuant to section 42 of the Financial Institutions Act 1995, if changes in circumstances so warrant.

2.6 Stage Four – Non-viability/imminent insolvency

Non-viability/ imminent insolvency
Severe financial difficulties resulting in: • failure or imminent failure to meet regulatory capital and liquidity requirements in conjunction with inability to rectify the situation within a short period of time as specified by the Bank • statutory conditions for taking possession being met • statutory conditions for suspending or revoking license being met • failure to develop and implement an acceptable business/strategic plan, thus making either of the two preceding circumstances inevitable within a short period of time
Bank's Activities/ Intervention
New business restrictions may be imposed on institution or existing restrictions may be expanded. Pressure to rectify situation is exerted on management and board of directors of the licensed financial institution through frequent meetings with the Bank. The Bank notifies management and board of directors of the licensed financial institution of intended regulatory intervention measures that will be taken unless situation is rectified immediately. If statutory conditions for taking possession of assets exist and if circumstances are such that there is an immediate threat to the safety of depositors and other creditors, the Bank may take such action.

The Bank may engage in discussions with the institution and other institutions/third parties in the formulation of contingency plans to deal with the situation.

If the applicable conditions exist for the winding-up of the licensed financial institution, such action will be considered.

The Bank in consultation with the Minister of Finance may revoke the licence of the financial institution.

As appropriate, other regulatory agencies will, within the statutory authority to share information, be advised of the situation and the action to be taken.

2.7 Interventions at any stage are incremental to those made at an earlier stage.

3.0 Simplified Schematic of Intervention Process in the Supervision of Licensed Financial Institutions

3.1

No Problems

Normal activities of the Bank Supervision Department

3.2

Stage One – Early Warning

The licensed financial institution is notified of problem by the Bank.

Remedial action plan requested or devised by the Bank.

Additional information/reporting may be requested.

The Bank may require an expanded external audit.

The Bank may conduct special inspections.

The Bank may request undertakings to address issues.

3.3

Stage Two – Risk to Viability or Solvency

The Bank considers licensed financial institution as ‘watchlist’. Contingency planning commences.

The Bank requires satisfactory plan for remedial action with time frame for achievement.

Increased monitoring by the Bank; expansion of scope and/or frequency of examinations.

The Bank may require further expansion of external audit work.

The Bank may impose restrictions on activities of licensed financial institution through directions/cease and desist orders.

The Bank may take temporary control under section 33 A. of the Financial Institutions Act 1995.

3.4

Stage Three – Viability in Serious Doubt

The Bank may require special work by independent external auditor.

The Bank requires plan specifying corrective measures required to avoid deterioration to Stage Four and satisfactory time frame for implementation.

Increased monitoring; possible location of staff from the Bank at the financial institution.

Enhanced scope and frequency of examination of deficient business activities.

The Bank may require the licensed financial institution to increase its capital base.

The activities may be further restricted.

The Bank may advocate merger with/ takeover by another entity and assist in the process.

The Bank expedites contingency planning.

The Bank may take possession of the licensed financial institution under section 42 of the Financial Institutions Act 1995.

3.5

Stage Four – Insolvency Imminent
The Bank may engage in search for third party participation in resolution of problem.
Seizure of assets or of the licensed financial institution, winding-up process begun or other steps to resolution taken before financial institution is insolvent.
Suspension or revocation of licence.

3.6 Where required by statute, actions of the Bank will be conducted in consultation with the Minister of Finance.