

[LEGAL NOTICE NO. 113]

RESERVE BANK OF FIJI ACT
(CAP. 210)

Reserve Bank of Fiji (Capital Markets and Securities Industry) Regulations 2015

IN exercise of the powers conferred upon it under section 9(2)(c) of the Reserve Bank of Fiji Act (Cap. 210), the Board, with the approval of the Minister, makes these Regulations—

Short title and commencement

1.—(1) These Regulations may be cited as the Reserve Bank of Fiji (Capital Markets and Securities Industry) Regulations 2015.

(2) These Regulations shall come into force on 1 January 2016.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“Act” means the Reserve Bank of Fiji Act (Cap. 210);

“capital market instruments” means any financial instrument whether in the form of debt or equity developed or traded on a securities exchange or directly between 2 or more parties which was originally issued for the purpose of raising funds for investments;

“clearing house” means a clearing house, by whatever name or designation, established or arranged to be established by a securities exchange for the registration of dealing in securities and the settlement of trading in securities;

“Companies Act” means the Companies Act 2015;

“examining officer” means an examining officer of the Reserve Bank appointed under regulation 5;

“licence” means a licence or approval issued by the Reserve Bank under the Companies (Securities Exchanges and Licensing) Regulations 2015; and

“securities” means debentures, stocks and shares in a public company or corporation, or bonds, bills, tradeable promissory notes or drafts of any government or of any body, corporate or incorporate, and includes any right or option in respect thereof and any interest in a unit trust or scheme.

(2) In these Regulations, words and phrases have the same meaning as under the Act unless the context otherwise requires.

Regulation of Capital Markets

3.—(1) The Reserve Bank may—

(a) formulate and implement rules and policies for the regulation and monitoring of capital markets and the securities industry in Fiji;

- (b) inquire, either on its own motion or at the request of any other person, into the affairs of any person which the Reserve Bank has approved or to which it has granted a licence and any public company the securities of which are traded on an approved securities exchange;
- (c) give directions to any person which the Reserve Bank has approved or to which it has granted a licence and any public company the securities of which are traded on an approved securities exchange;
- (d) conduct inspection of activities, books and records of any person which the Reserve Bank has approved, and persons to which the Reserve Bank has granted a licence;
- (e) require information to be provided as requested by the Reserve Bank;
- (f) regulate and oversee the issue and subsequent trading both in primary and secondary markets of capital market instruments;
- (g) regulate and monitor the activities of any securities exchange, clearing house and central depository;
- (h) take all reasonable measures to safeguard the interest of persons dealing in securities;
- (i) promote and encourage proper conduct amongst members of the exchanges and all registered persons;
- (j) grant compensation to any investor who suffers pecuniary loss resulting from the failure of a holder of a licence to meet its contractual obligations;
- (k) suppress illegal, dishonourable and improper practices in deals in securities and the provision of investment advice or other services relating to securities.

(2) A person must comply with the rules and policies issued by the Reserve Bank.

Offences

4.—(1) Any person who by an act or omission knowingly contravenes a provision of these Regulations shall be guilty of an offence.

(2) A person who is guilty of an offence against these Regulations shall be liable upon conviction to a fine not exceeding \$5,000.

(3) If an act of omission, which contravenes these Regulations, is also an offence prescribed by the Act or the Companies Act, nothing in this regulation shall prevent a person who is guilty of the act or omission from being prosecuted, convicted and penalised for the offence prescribed in the Act or the Companies Act.

Appointment of examining officers of the Reserve Bank

5.—(1) The Reserve Bank may appoint such number of examining officers as it considers necessary for the purpose of carrying out investigation of an offence or inspection under the Act, Companies Act or these Regulations.

(2) An examining officer appointed under subregulation (1) shall have all the powers given to any person for the purpose of carrying out investigation of an offence or inspection under the Act, Companies Act or these Regulations.

Powers of the examining officers of the Reserve Bank

6.—(1) An examining officer carrying out an investigation or inspection may enter any place or building and may—

- (a) inspect and make copies of or take extracts from any book, minute book, register or document; and
- (b) where he has reason to believe that an offence has been committed against the Act, Companies Act or these Regulations, apply before the High Court for a warrant to search for, seize, take possession of and detain any object, article, material, thing, accounts, book or other document, including any travel or other personal document, which may be used as evidence.

(2) An examining officer may by notice in writing require any person to produce to the examining officer such books, registers or documents as are in the custody or under the control of that person.

(3) A person who—

- (a) fails to produce any books, registers or documents as required by an examining officer; or
- (b) obstructs or hinders an examining officer in the exercise of the examining officer's powers under this regulation, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 years or to both.

(4) An examining officer may grant permission to any person to inspect any accounts, book or other document seized and taken possession of by the examining officer under subregulation (1) if such person is entitled to inspect such accounts, book or document under the Act, Companies Act or these Regulations.

(5) Subregulation (1) shall not be construed as limiting or affecting any similar powers conferred on any person under any other law.

Forcible entry

7.—(1) For the purpose of exercising the examining officer's powers under regulation 6(1) an examining officer may enter a place or building by force, if necessary.

(2) Notwithstanding subregulation (1), no examining officer shall enter a premises by the use of force without a search warrant issued by a Judge.

Power to call for examination

8.—(1) For the purpose of regulations 6 and 7 an examining officer may by notice in writing require a person acquainted with the facts and circumstances of the case to appear before the examining officer to be examined orally and shall reduce into writing any statement made by the person so examined.

(2) A statement made by a person under this regulation shall be taken down in writing and signed by the person making it or affixed with his thumb print, as the case may be, after it has been read to the person and after the person has been given an opportunity to make any correction the person may wish, provided that, where the person examined refuses to sign or affix the person's thumb print on the statement, the examining officer shall endorse thereon under the examining officer's hand the fact of such refusal and the reason therefore, if any, stated by the person examined.

(3) A statement made and recorded under this regulation shall be admissible as evidence in any proceeding.

(4) A person who—

- (a) fails to appear before an examining officer as required under subregulation (1); or
- (b) knowingly furnishes to an examining officer information or a statement that is false or misleading in any material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3½ years or to both.

Approved this 30th day of December 2015.

F. S. KOYA
Acting Minister for Finance

Made this 30th day of December 2015.

B. WHITESIDE
Governor and Chairman
of the Board of Directors
Reserve Bank of Fiji