



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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WINDHOEK - 27 July 2020

No. 7286

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Government Notice

MINISTRY OF FINANCE

No. 159

2020

DESIGNATION OF ACTIVITIES OF MULTI-LEVEL MARKETING BUSINESS PRACTICES AS ACTIVITIES NOT INCLUDED AS PYRAMID SCHEMES UNDER SECTION 55A: BANKING INSTITUTIONS ACT, 1998

Under subsection (1)(c)(ii) of section 55A of the Banking Institutions Act, 1998 (Act No. 2 of 1998), on the recommendation of the Bank of Namibia, I designate the activities of multi-level marketing business practices as activities which are not included as pyramid schemes under that section, subject to the conditions specified in the Schedule.

I. SHIMI
MINISTER OF FINANCE

Windhoek, 14 July 2020

SCHEDULE

Definitions

1. In this notice a word or an expression to which a meaning has been assigned in the Act has that meaning, and unless the context otherwise indicates -

“multi-level marketing business” means a business practice in which a participant pays money to a business promoter in return for which the participant obtains a right to -

- (a) recruit additional participants, or to have additional participants placed by the promoter or any other person into the program participant’s down-line, tree, cooperative, income centre, or other similar program grouping;
- (b) sell goods or services; and
- (c) receive payment or other compensation, provided that -
 - (i) the rewards and benefits received by each participant are derived primarily from retail sales of goods or services, and not from recruiting additional participants or having additional participants placed into the participant’s down-line, tree, cooperative, income centre, or other similar program grouping; and
 - (ii) the business practice has instituted and enforces rules to ensure that the marketing program is not a plan in which participants earn profits primarily by recruiting additional participants rather than retail sales;

“payment” means the provision of a financial or non-financial benefit to or for the benefit of a person;

“rewards” means any money or anything of value or benefit earned by participants, which includes commissions and bonuses; and

“the Act” means the Banking Institutions Act, 1998 (Act No. 2 of 1998).

Conditions subject to which the activities of multi-level marketing business practices are designated as activities not included as pyramid schemes under section 55A of the Act

2. Only the activities of multi-level marketing business practices that meet the following conditions are designated as activities which are not included as pyramid schemes under section 55A of the Act -

- (a) the business practice must not be structured in such a way that members of the public are obligated to make payment of a participation fee, unless the payment is in exchange for samples or testing products;
- (b) the product or service being offered must have intrinsic value, the product or service must be in demand and there should be a market for the product or service;
- (c) if the product for sale is in a regulated industry, the product must be registered with the relevant governing body in Namibia;
- (d) the product for sale must be permissible for use in the country in which it is manufactured;
- (e) compensation and rewards that are earned by participants must be through the sale of products, and not through the recruitment of other participants;
- (f) the business practice must not by act or omission make any misleading representation about the rewards and benefits of the business practice or permit any such act or omission to be made;

- (g) the business practice must not mislead the public about the compensation plan with false promises of high returns on investments;
 - (h) the promoters of the business practice must not make use of intimidation, harassment, unjustified enticement or any other dishonourable means to register new participants;
 - (i) the business practice must have a return policy available that offers refunds if a member is not satisfied with the product or service, and -
 - (i) each participant must be able to exercise the return policy, on reasonable commercial terms, within a reasonable period from the date of receipt of the product or service; and
 - (ii) it is the responsibility of the business practice to ensure that all participants are informed of the return policy at the time of receipt or distribution of the product or service; and
 - (j) the business practice must be registered in Namibia in terms of the relevant legislation and the business practice must maintain independently audited financial statements in terms of the relevant accounting standards.
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