

BANKING IN CAMEROON

(AN OVERVIEW)

PREPARED BY THE
NICO HALLE & Co. LAW FIRM



LAW FIRM ADDRESS:

Nico Halle & Co. Law Firm

B.P.: 4876 Douala

Immeuble Pharmacie Bell

8 Avenue Douala Manga Bell

Face SGBC Bali

Douala – Cameroon.

Tel: +237 33 42 64 79

Fax: +237 33 43 26 34

Hotline: +237 77 53 75 52

Email: hallelaw@hallelaw.com

Web Site: <http://www.hallelaw.com>

IP Department: <http://www.wipnetglobal.com>

Contact Person: Nico Halle, Senior Managing Partner.

BANKING IN CAMEROON

INTRODUCTION

Progressive investment and development today cannot be achieved without a secured legal and commercial environment and a strong independent court system.

The era of globalization tremendously affected the Banking Sector in Cameroon. It is thanks to globalization that most modern States have abandoned their fundamental principles and attitude of non-interference for interdependence and mutual suspicion for mutual interaction. There is free movement of goods and services across the frontiers which indicate a borderless economy. This therefore calls for improvements on security measures as far as commerce is concerned. Investors will not appreciate investing in a State where their investments cannot be guaranteed.

It is against this backdrop that Cameroon in response to this pertinent global problem modified its Banking Regulations to guarantee foreign investment.

Cameroon today is a member State of the Bank of Central African States (B.E.A.C.) and also a member of the Central African Economic and Monetary Community (CEMAC). These two bodies, BEAC and CEMAC constitute part of the "Franc Zone". Franc Zone simply means those African States whose monetary policy is being directed by France especially in the domain of exchange rate with respect to currencies of other countries, convertibility to other currencies, centralization of international exchange reserves and harmonization of regulations.

The Banking Industry in Cameroon is governed by laws and regulations whose sources are listed seriatim: International Conventions, Customs Laws, Ordinances, Presidential Decrees, Ministerial Orders, Circulars and Court Decisions. These regulatory instruments are flexible in character, meaning they can be a subject of modification based on some socio-cultural, political and economic development within Cameroon. Banking regulations vary between jurisdictions.

OBJECTIVES OF BANKING REGULATIONS IN CAMEROON

1. PRUDENTIAL.

This means to reduce the level of risk bank creditors are exposed to. Thus the regulation seeks to protect depositors.

2. SYSTEMATIC RISK REDUCTION.

This is to reduce the risk of disruption resulting from adverse trading conditions for banks causing multiple or major bank failures.

3. AVOID MISUSE OF BANKS.

This is to reduce the risk of banks being used for criminal purposes e.g. laundering the proceeds of crimes.

4. CONFIDENTIALITY.

This is to protect bank confidentiality.

5. CREDIT ALLOCATION

This is to direct credit to favoured sectors.

GENERAL PRINCIPLES OF BANK REGULATIONS.

1. MINIMUM REQUIREMENTS.

In order to promote the objectives of the regulator, certain requirements are imposed on banks. The most important minimum requirement in banking regulation is minimum capital ratios (MCR).

2. SUPERVISORY REVIEW.

To operate as a bank, the bank must first obtain a License from the regulator in order to carry on business in Cameroon. The regulator has the obligation to supervise licensed banks for compliance with the requirements and responds to breach of the requirements through obtaining undertakings, giving directions, imposing penalties or revoking the bank's license.

3. MARKET DISCIPLINE.

The regulator requires banks to publicly disclose financial and other information and depositors and other creditors are able to use this information to assess the level of risk and to make investment decisions. As a result of this, the bank is subject to market discipline and the regulator can also use market pricing information as an indicator of the bank's financial health.

INSTRUMENTS REGULATING BANKS IN CAMEROON.

The Ordinance N° 85/002 of 31 August 1985 relating to the establishment of Credit Institutions or Loan Houses is one of the most important Texts regulating the Banking Sector in Cameroon. This Ordinance has been ratified by Law N° 88/006 of July 1988 and Law N° 90/019 of August 10, 1990. These laws repeal the old practice whereby only persons of Cameroonian nationality had the privilege to head banking institutions in Cameroon.

Ordinance N° 90/6 of October 26, 1990 on its part exempts banking institutions from the payment of registration fees and stamp duties on all Deeds and Judgments relating to transfer and or resale of immovable property.

The main banking regulatory instrument is the COBAC Text of 17 January 1992 harmonizing banking regulations in the six member States of BEAC. This text differentiates banks from other financial institutions, makes provision for licensing procedure of financial institutions appointment of its key executive members and sanctioning of contravening institutions, indicates minimum paid up capital, capital adequacy for operation of financial institutions and finally, makes provisions on risk coverage sharing and liquidity ratios.

II. THE OHADA TREATY.

Apart from Conventions, Laws, Ordinances, Presidential Decrees, Ministerial Orders and Circulars that govern Banking in Cameroon, the most recent harmonized legislation that governs business activities, (banking inclusive) in the CFA Zone is the OHADA Treaty.

The OHADA Treaty became effective in Cameroon in January 1998 and lays down conditions for the incorporation, functioning and dissolution of companies (financial institutions inclusive) in the CFA Zone. An important innovation in this Text is the creation of Arbitration Court for conflict resolution. Its Permanent Secretariat is found in Cameroon while Côte d'Ivoire hosts its law courts.

This Treaty has met with a lot of criticism from Anglophone Cameroon as jurists from this part of the country argue that the Text has rendered the Common Law procedure impracticable, as the Text is French-oriented.

Another recent innovation in the Cameroon Banking Sector is the introduction of the Western Union system and Money Gram, by which systems the transfer of currency from one country to another can be effected even for individuals without bank accounts.

REGULATORY BODIES.

- COBAC (The Banking Commission for the six Central African member States).
- MINFI (The Ministry Finance).
- NCC: The National Credit Council.
- BEAC: The Bank of Central African States.
- APECAM: The Banking and Credit/Finance Association.

SUPERVISORY AUTHORITIES/CONTROL.

This role devolves mainly upon the Ministry of Finance and COBAC. The Ministry of Finance controls all banking activities especially the terms and conditions for banking services. It also receives applications for licensing and the appointment of General Managers of banks and other financial institutions and passes same to COBAC for approval/rejection. COBAC has up to six months within which to decide on such applications.

In conjunction with the National Credit Council, the Governor of the Central Bank rules on the following:

- Minimum capital for banks and finance houses;
- Conditions for opening up branch offices;
- Anti-trust issues and collaboration amongst the institutions.

The Central Bank performs the role of a Regional Central Bank as indicated above as well as issues notes. It also acts as clearing house for the banks. However, for its functions of directing monetary policy and acting as lender of last resort, it falls wide off the mark.

The law does not expressly prohibit certain banking practices but the following are covered in general terms by the Penal Code: Money laundering, constructive capital/currency exports, Bureau d'échange, holding of undue credit balances in nostro accounts for periods over one month.

INSTITUTION OF CROSSED CHEQUES.

The institution of crossed cheques was contained in a communiqué of December 06, 1996 by the Secretary General of the Cameroon Association of Professional Credit Establishment (APECAM). This communiqué was to the effect that banks would henceforth respect scrupulously the decision of the National Credit Council instituting the obligatory crossing of cheques in Cameroon well before their issuance. Here, before delivering cheque booklets to their clients, the banks ensure that there are two parallel lines on the face of each cheque leaf. This is actually being enforced. This condition was designed to guarantee security.

INCORPORATION PROCEDURE.

As at now, only Commercial Banks exist in Cameroon and operate as Public Limited-liability Companies though shares are not listed.

For incorporation and registration of banks, documents to be forwarded in two copies to the Ministry of Economy and Finance against acknowledgment of receipt are:

- The draft Memorandum and Articles of Association;
- List of shareholders;
- A business plan, budget, management structure and proposed branch network;
- Proof of deposit of the required paid-up capital and
- The names of the proposed General Manager (GM) and Deputy General Manager (DGM).

For purposes of proper identification of job managers by MINFI, the following documents are required:

- A copy of Birth Certificate;
- Two passport-size photographs;
- A Certificate of non-conviction dated not later than three months from the date of signature;
- A Curriculum Vitae (CV);
- Copies of relevant Diplomas;
- Minutes of Board meeting confirming appointment;
- A Certificate of residence and
- A residence permit (for foreigners).

All of the above documents are sent to COBAC and if within six months the answer is in the affirmative, MINFI issues the License. COBAC's silence at the end of the six months period is also considered as a favourable response. The License is published in the Official Gazette and in at least one widely circulated national newspaper. The NCC grants the new institution a registration number, which must feature in all future correspondences of the Bank or Finance House. Once the License is granted, the new bank has up to 12 months to start functioning failing which the License will be withdrawn.

RESTRICTION ON INCORPORATION.

Since the enactment of the 1985 Ordinance, there is no restriction on ownership, hence the existence of 100% privately-owned banks and the possibility to have offshore offices in the country.

Also, by Ordinance N° 90/7 of 18 November 1990 a new Investment Code was instituted in Cameroon. Its all-embracing purpose is to encourage and promote productive investment in the country. This Investment Code offers alluring conditions to investors in the form of guarantees. Investment in the Banking Sector is opened to all natural persons or corporate bodies of Cameroonian or foreign nationality, irrespective of their place of residence. Hence foreign nationals have the right to enjoy the same liberties and protection of the law as those granted Cameroonian natural persons or corporate bodies.

Foreign nationals also have the right to enjoy the manifold rights governing property ownership, concession and administrative

authorizations. They also enjoy the right to compensation in the case of illegal expropriation.

Foreign investors have the right to hire and fire labour in compliance with the Labour and Social Insurance legislations in force.

There is also the right to freely transfer proceeds of all kind from the invested capital and in case they cease to operate, the balance of the liquidation. They are also free to transfer out of Cameroon, funds representing normal and current payments for supplies and services effectively performed, particularly in the form of royalties and sundry remuneration.

BANK CHARGES.

Bank charges are regulated by the Ministry of Finance. The lending rate is approximately 22% without taxes. (This has recently been increased from 17%). Foreign exchange commissions of between 1.5% and 4% apply both to selling and buying. Deposit rates apply at a maximum rate of 8% with a base rate of 4.5%. Other charges apply, on average at a rate of 15% on the transaction amount. A single borrower's limit must not exceed 45% of the Bank's capital funds.

RETAIL BANKING SERVICES.

These include:

- Deposits, withdrawals and small loan facilities;
- Travelers cheques/bank drafts and other money transfers;
- Cheque certifications and custody.

MINIMUM SHARE CAPITAL.

The minimum share capital requirement varies with the type of credit institution. For banks, the fully paid-up capital is US \$ 2.000.000, although a proposal that this be increased to US \$ 4.000.000 is under consideration.

No fixed legal reserve requirement exists in the Cameroon Banking Industry. The capital and equal ratio is 8%. Generally, very detailed

and complex calculations are provided to arrive at the respective prudential ratios.

LENDING LIMITS.

- Total loans to one borrower must not exceed 45% of capital funds.
- Total loans to borrowers representing over 15% of capital fund, must not in aggregate exceed the total of net capital.

There are no protection schemes in the form of deposit insurance or reserve asset requirements, save the prudential regulations in place and monitored by COBAC - the banking police.

DOMESTIC BANKS.

With the liquidation of Banque Meridien BIAO Cameroun (BMBC) in 1996, Crédit Agricole du Cameroun (C.A.C.) in 1997 and the incorporation of the Commercial Bank of Cameroon (C.B.C.) in 1998, there exists 10 functional Commercial Banks in Cameroon. These include:

- Société Générale des Banques au Cameroun (SGBC);
- Standard Chartered Bank of Cameroon (SCBC);
- SCB - Crédit Lyonnais du Cameroun (SCB-CL);
- Amity Bank Cameroon PLC;
- ECOBANK;
- Afriland First Bank;
- CITIBANK;
- Commercial Bank of Cameroon (CBC);
- Union Bank of Cameroon (UBC);
- Banque International du Cameroun pour l'Épargne et le Crédit (BICEC). BICEC was created following the restructuring of "Banque Internationale pour le Commerce et de l'Industrie du Cameroun" (BICIC).

Apart from Amity Bank PLC, Afriland First Bank, Commercial Bank of Cameroon, Union Bank of Cameroon, ECOBANK, CITIBANK and Standard Chartered Bank, which are privately owned, the other banks above have government share holdings of between 35% to 83% and are heavily influenced by the latter. Banks in Cameroon are all commercial banks mainly handling traditional banking

functions, lending short-term and specializing in short-term self liquidated trade finance. Long-term loans are accorded by the Central Bank (BEAC).

OTHER FINANCIAL INSTITUTIONS IN CAMEROON.

- Insurance/Re-Insurance Companies.
- Hire Purchase/Leasing Companies.
- Real Estate Companies.
- Loan Funds for Investing In Real Estate.
- Investment Corporations.
- Recovery Corporations.

BANKING SECRECY.

In Cameroon, banking secrecy is contained in the internal regulations of each bank and even on employment contracts. The Cameroon Penal Code in its Sections 74 and 310 lays down the penalties for breach of confidentiality. The Penal Code also provides sanctions for counterfeit and laundering.

The practice of usury is a common and very dynamic phenomenon in Cameroon. Non-financial institutions and individuals sometimes lend money at exorbitant interest rates of more than 30% against normal bank rates of 22%. The Cameroon Penal Code in its Article 325 also sanctions this illegality.

NB;

For any further information please contact the **NICO HALLE & Co. LAW FIRM.**