

*Bank of Botswana*



*Whistleblowing Policy*

*November 2018*

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## **DEFINITIONS**

<i>Bona fide</i>	<i>In good faith.</i>
<i>Concern</i>	<i>Alleged impropriety/alleged malpractice report.</i>
<i>Corruption</i>	<i>The giving or offering, receiving or agreeing to receive, obtaining or attempting to obtain any benefit which is not legally due to or by a person(s) who has been charged with a duty or power by virtue of employment, to do an act or omit to do any act in relation to that power or duty. Corruption may encompass many different types of acts, including bribery.</i>
<i>Disclosure of impropriety</i>	<i>Any declaration of information made by a Whistleblower with regard to the conduct of one or more persons where the Whistleblower has reason to believe that the information given shows or tends to show an impropriety.</i>
<i>Fiduciary duty</i>	<i>The legal obligation to act solely in another party's interest, who you have a duty to represent.</i>
<i>Fraud</i>	<i>Unlawful making of, with intent to defraud, a misrepresentation which causes actual or potential prejudice to another.</i>
<i>Impropriety</i>	<i>Conduct which falls within any of the matters specified in Section 3 of the Whistleblowing Act, 2016.</i>
<i>Malpractice</i>	<i>Improper, negligent or illegal behaviour.</i>
<i>Stakeholders</i>	<i>Refers to any person or entity that has an interest in the affairs of the Bank.</i>
<i>Unethical behaviour</i>	<i>Failure to observe standards of honesty; improper behaviour or improper conduct.</i>
<i>Theft</i>	<i>The unlawful misappropriation of another's property or property which is in his/her lawful possession, with the intention to deprive the owner of his/her rights to such property.</i>
<i>Whistleblower</i>	<i>Staff and stakeholders who make a disclosure of an impropriety.</i>

## **1. Introduction**

- 1.1 *This Policy shall be referred to as the Whistleblowing Policy of the Bank of Botswana.*
- 1.2 *The Whistleblowing Act, which came into effect in 2016, provides the legal basis for whistleblowing in Botswana. It sets out the manner in which a person may disclose any conduct reasonably believed to be against the public interest, the modus of reporting and investigation of the disclosure, along with the protection afforded to persons making such disclosures or report. The Act also provides for specific identified authorised persons to receive such disclosure in the event the internal institutional processes for whistleblowing are exhausted without effect.*
- 1.3 *Whistleblowing is the term used when a staff member or any person associated with the institution passes on information to relevant authorities concerning suspected wrongdoing, impropriety or corrupt practices. This involves making a disclosure in the public interest and occurs when a staff member or any stakeholder raises a concern about suspected fraudulent, illegal or improper act that could adversely affect the Bank, its staff or members of the public. The suspected transgression shall typically be something the Whistleblower has witnessed at or outside work or in the course of business.*
- 1.4 *A Whistleblower who makes a disclosure must reasonably believe that he/she is acting in public interest and that the disclosure shows a pattern or present wrongdoings or violation of policies or internal controls.*
- 1.5 *Personal grievances and complaints are not covered by whistleblowing activity but may be reported using the Bank's Grievance Procedure, in accordance with the Bank's General Condition of Services.*
- 1.6 *Persons reporting such wrongdoings to the appropriate authority in good faith, as would be indicated in the policy, are afforded confidentiality and protection against any retaliation or victimisation. The basic rights of any person implicated by the reported incidents are also respected.*

## **2. Purpose/Objectives of the Policy**

- 2.1 *The Bank aspires to be a world-class central bank with the highest standards of corporate governance and professional excellence. In this regard, the Bank is committed to the highest standards of openness, probity and accountability. An important aspect of accountability and transparency is the availability of alternative mechanisms to enable staff or any stakeholder to raise any concern in a responsible and effective manner.*

## 2.2 *The Policy aims to:*

- (a) enable staff and stakeholders to raise genuine and/or legitimate concerns regarding any matter that may be harmful or prejudicial to the interest of the Bank;*
- (b) reassure staff and/or stakeholders that they are protected against possible reprisals or victimisation for disclosures made in good faith;*
- (c) affirm existence of an appeal process in the Bank concerning allegations levelled against the Whistleblowers; and*
- (d) provide avenues for staff and stakeholders to receive feedback on action taken against concerns raised.*

## 3. ***Policy Statement***

- 3.1 *The Bank's Whistleblowing Policy provides a means by which staff and stakeholders may raise concerns about perceived or existing improprieties or malpractices in good faith, without fear/favour and/or prejudice. The Policy is a key element for safeguarding the integrity of the Bank, aimed at enhancing transparency in its activities and preserving its reputation. It is intended to encourage staff or any stakeholder to raise concerns pertaining to the Bank, rather than overlooking or ignoring any impropriety or malpractice.*
- 3.2 *The Bank requires the active support of all staff and stakeholders to report incidents of suspected fraud, corruption, collusion and coercion, and other serious infringements of the rules and policies in force at the Bank. The Bank intends to create an environment of trust and maximum protection for its staff members and encourage them to cooperate fully in this regard. The Bank will have in place arrangements that will ensure that staff and stakeholders who report irregularities in good faith are afforded utmost confidentiality and anonymity with effective protection against any retaliation or reprisals, whether actual or threatened, as a result of their whistleblowing.*
- 3.3 *The Policy is neither designed to abrogate the Bank's administrative structures nor question policy, personnel, financial or business decisions made by the Bank competently, legitimately, procedurally and in good faith nor should it be used to reconsider any matters, which have already been addressed under the Bank's General Conditions of Service (GCS). The Policy is also not meant to compromise or violate the expectations under the Oath of Secrecy and Declarations made under Section 19 of the Bank of Botswana Act.*

## 4. ***Scope of the Policy***

- 4.1 *The Bank's General Conditions of Service provide guidance and procedures for a staff member to lodge a grievance relating to his/her terms of employment. Therefore, this Whistleblowing Policy should ordinarily not be used to address issues of a disciplinary matter or substantive or procedural unforeseen issue for the particular staff member, except where such a personal grievance or complaint is*

*related to Whistleblowing or is used as an example of an unlawful authority, violation of procedures, corrupt practice and/or abuse of office.*

4.2 *The Whistleblowing Policy is intended to supplement/complement existing internal policies, and focuses on all improper business which can constitute an impropriety or malpractice, including, but not limited to the following:*

- (a) financial malpractice, impropriety or fraud;*
- (b) failure to comply with a legal obligation or statutes;*
- (c) dangers to health, safety or the environment;*
- (d) criminal activity;*
- (e) disclosure related to miscarriage of justice;*
- (f) unauthorised use of public funds or property; and*
- (g) any other unethical or improper conduct that contravenes the Bank's policies, such as covering up wrongdoing.*

4.3 *This Policy shall apply to any person who has an interest in the affairs of the Bank, especially staff, contractors, commercial banks or similar persons and the public at large.*

## **5. Reporting Obligation**

5.1 *A staff member and any stakeholder may report any suspected or presumed incidents of illegal behaviour in activities that involve the Bank or of serious misconduct or serious infringement of the Bank's rules, policies or guidelines, or any action that is or could be harmful to the mission or reputation of the Bank.*

5.2 *Such incidents may involve staff members, contractors, suppliers, beneficiaries or any other persons or entities that participate or seek to participate in the activities of the Bank.*

5.3 *As earlier indicated in Paragraph 3.3 above, it is important to note that staff are prohibited from disclosing confidential information and/or documents of the Bank in compliance with section 19 of the Bank of Botswana Act. This does not, however, restrict the Whistleblower from reporting observations made in the line of duty or otherwise.*

5.4 *If a member of staff makes an allegation in good faith, but it is not confirmed by investigations, no action will be taken against them. However, if investigations indicate that a staff member made an allegation frivolously, maliciously or for personal gain, disciplinary action shall be taken against them in accordance with the relevant provisions of the Bank's Code of Conduct.*

5.5 *The Whistleblower shall cooperate in any official investigation, audit or similar request with due protection. No member of staff of the Bank shall use his/her position to prevent another staff member from exercising their rights or complying with their obligations as indicated.*

## **6. Reporting Procedure**

- 6.1 *A manned telephone Hot Line managed by an independent, outsourced specialist agency will be available 24 hours each day, including weekends and holidays for any type of whistleblowing reporting. The number will be published in the Bank's Website and advertised elsewhere, as appropriate. The Whistleblower will be able to call the number directly and report any concerns regarding an impropriety and/or malpractice that they may have observed.*
- 6.2 *The agency will at all times, maintain the confidentiality of the identity of the Whistleblower. The agency will transmit the content of the whistleblowing report to the appropriate officer of the Bank as designated by this Policy in the paragraphs below. Should the matter relate to the Governor, the agency will make its determination to report the matter to the Chairmen of the Audit and Risk and, Ethics Governance and Committees.*
- 6.3 *Prior to reporting any concern or allegation, if the Whistleblower is a staff member, he/she should determine whether the concern or allegation relates to an unethical or fraudulent matter which could be resolved in accordance with the Bank's internal procedures.*
- 6.4 *The Whistleblower, should, in all cases, report any concerns or allegations only through the "Hot Line" as indicated in Paragraph 6.1 above and not to any other persons including members of the Board or entities outside of the Bank. If the Whistleblower is a staff member of the Bank, he/she is not considered to be in violation of the Article 6 of the Bye-Laws of the Bank which prohibits staff from petitioning or appealing to anyone, other than the Commissioner of Labour, the Industrial Court or other authorities duly constituted under the laws of Botswana.*
- 6.5 *The Whistleblower must demonstrate to the person who receives the report that there are adequate and reasonable grounds for the concern to be raised and lodged.*
- 6.6 *Concerns may be reported anonymously or with full identity disclosure to the "Hot Line". The Agency may request further information should the Whistleblower be willing to provide it in writing or verbally. The identity of the Whistleblower shall be confidentially maintained by the Agency and will be disclosed to the Bank only with the approval of the Whistleblower.*

## **7. Dealing with Disclosure and Communication**

- 7.1 *Where the identity of the Whistleblower is known, the Bank shall respond to concerns raised by the Whistleblower through the Agency within two weeks, by:*
  - (a) *acknowledging that the concern has been received;*
  - (b) *detailing how the Bank proposes to deal with the matter;*
  - (c) *giving an estimate of how long it will take to provide a final response; and*
  - (d) *seeking further clarity on information provided from the Whistleblower, where necessary.*



7.2 *Where necessary, and in order to protect the whistleblower against whom the allegations are made, the matters raised may be:*

- (a) investigated by the Bank;*
- (b) referred to the Botswana Police/Directorate on Corruption and Economic Crime or authorised person/entity according to the Act;*
- (c) referred to external auditors/fraud examiners; and/or*
- (d) the subject of an independent inquiry.*

7.3 *The Bank shall take steps to minimise any difficulties that a Whistleblower may experience as a result of raising a concern such as, providing assistance and/or advice about procedures in giving evidence in a criminal or disciplinary proceedings, etc.*

7.4 *The Bank will inform the Whistleblower of the outcome of the investigation, if the identity of the Whistleblower is known to the Agency.*

## **8. *Protection, Anonymity and Confidentiality***

8.1 *Any Whistleblower who reports an irregularity in terms of this Policy and the Whistleblowing Act, shall be protected against any unjust and detrimental acts of retaliation, undue threats or influence including, but not limited to direct or indirect acts of harassment, discrimination and vindictiveness.*

8.2 *The protection of a whistleblower shall be guaranteed by keeping their identity and names confidential, unless authorised by the Court or where such revelation is required by law; in which case the Bank shall be required to notify the Whistleblower before revealing identity.*

8.3 *Where the Whistleblower considers that he/she has been a victim of retaliation or has a good reason to believe or fear that they are exposed to a risk of retaliation as a result of their reporting, he/she shall be entitled to complain to Director, Internal Audit Services Department (DIASD) and request protection. The DIASD shall assess the circumstances of the case referred to his/her office, and may recommend to the Governor or appropriate office that such protection be granted to the Whistleblower on a temporary or permanent basis, depending on the assessment made. The Whistleblower shall be informed in writing of the results of this assessment and the decision taken.*

## **9. *Penalties for those taking Retaliatory Action***

9.1 *Any form of retaliation undertaken by a staff member against any person for reporting an irregularity in good faith is prohibited, and is considered a breach of the professional ethics requirements of the Bank's Code of Conduct. In such cases, appropriate disciplinary measures shall be taken.*



## **10. Rights of Persons Implicated**

- 10.1 Any person implicated by reports of irregularity must be notified in good time of the allegations made against him/her, provided this notification does not impede the procedure for establishing the circumstances of the case.
- 10.2 In keeping with principle of the right to be heard, the implicated staff member should be given an opportunity to respond to allegations of wrongdoing before being specifically named in the final findings of the procedure.
- 10.3 After considering the views of the staff member implicated, which views shall be reduced to writing, the Governor or appropriate officer shall make a ruling.
- 10.4 Where a wrongdoing as reported by a Whistleblower is established, the wrongdoer shall be dealt with in accordance with the General Conditions of Service and a report shall be made to an appropriate authority in terms of the Whistleblowing Act or any other Act.

## **11. Policy Implementation**

- 11.1 Policy Implementation is supported by a structured education and awareness programme.
- 11.2 It is the responsibility of Heads of Department/Division to ensure that all staff and/or relevant stakeholders are made aware of, and receive proper training in this regard.

## **12. Review and Adoption**


- 12.1 The overall responsibility for the maintenance and operation of this policy lies with the Chairman of the Audit and Risk Committee, appropriately supported by the Director, Internal Audit Services Department in maintaining a record of concerns raised and conclusions reached, without compromising on confidentiality.

## **13. Approval**

- 13.1 This policy was approved by the Board at its meeting of December 8, 2017.

Signed.....  
**Audit and Risk Committee Chairman**

Date.....8 December 2018

Signed.....  
**Governor (Chairman of Board)**

Date.....Nov 13, 2018