



BANK Of ZAMBIA
OFFICE OF THE DEPUTY GOVERNOR - OPERATIONS

May 06, 2010

CB Circular No : 05/2010

**To : All Commercial Banks/
Non-Bank Financial Institutions**

CHARGING OF PENALTY INTEREST

The Bank of Zambia has noticed that some Financial Service Providers have continued to charge penalty interest to customers contrary to the guidelines contained in the Banking and Financial Services (Cost of Borrowing) Regulations, 1995 (Statutory Instrument No. 179 of 1995).

The purpose of this Circular, therefore, is to remind all Financial Service Providers that penalty interest is prohibited under Regulation 10 (1) of Statutory Instrument No. 179 of 1995 which states that:

A bank or financial institution shall not impose on a borrower any charge or penalty as a result of the failure by the borrower to repay or pay in accordance with the contract governing the loan other than:

- (a) interest on an overdue payment on a loan;*
- (b) legal costs incurred in collecting or attempting to collect a payment on a loan; or*
- (c) costs, including legal costs, incurred in protecting or realizing the security on a loan.*

Regulation 10 (2) further states that:

A bank or financial institution shall not impose a charge or penalty on a borrower for making a pre- payment of the principal or an installment of the principal before its due date where:

- (a) the amount of the repayment exceeds K50, 000 or extinguishes the debt;*
- (b) the loan is made to a natural person; and*
- (c) the loan is not secured by a mortgage on real property.*

Furthermore, take note that the requirement for Financial Service Providers not to charge penalty interest should not be circumvented by Financial Service Providers including a provision for penalty interest in loan agreements with borrowers. Kindly be advised that such a provision is liable to be struck down by the courts for being a penalty objectionable at both common and statutory law.

To this effect, all Financial Service Providers are required to strictly adhere to the Banking and Financial Services (Cost of Borrowing) Regulations of 1995. The Bank of Zambia considers that the omission or failure by any Financial Service Provider to adhere or comply with the requirements of Statutory Instrument No. 179 of 1995 will constitute an unsafe and unsound banking practice and may attract Supervisory Action in terms of Section 77 of the Banking and Financial Services Act.



Denny H Kalyalya (Dr)
DEPUTY GOVERNOR- OPERATIONS

Cc: Governor