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IMPACT OF THE VALUATION ACT, 2026 ON THE OPERATIONS OF FINANCIAL INSTITUTIONS.

INTRODUCTION

This memorandum analyses the implications of the Valuation Act, 2026 (herein after referred to as "the Act") on the operations of Financial Institutions (hereinafter "the Banks"), particularly in relation to due diligence, mortgage financing among others.

OBJECTIVE OF THE ACT:

Valuations are used to inform decisions in both the private and public sectors for example in mortgage financing, real estate investment etc.

The Act regulates practicing valuation through the establishment of the Institute of Certified Valuers of Uganda and the Council as its goveming body, provides for the Office of the Chief Government Valuer with the mandate to undertake statutory valuations. The Act goes ahead to provide for Professional Code of Ethics for certified valuers and practicing valuers coupled with putting in place offences and penalties relating to valuation.

KEY PROVISIONS IN THE ACT AND THEIR EFFECT ON FINANCIAL INSTITUTIONS:

1. Practicing Certificates and Licenses.

The Act under Section 24 and 25 introduces the requirement for practicing certificates for sole valuation practitioners together with annual licenses of practice to valuation firms. The Act goes ahead to require firms to be constituted as partnerships under the Partnership Act, Cap. 110. The said licenses and practicing certificates expire on the 31st day of December and must be renewed every year. Section 41 of the Act creates a roll of enrolled valuers.

Operational implications:

The banks will be able to engage duly licensed valuation firms and practitioners with valid annual certificates of practice. The Banks shall be able to verify the details of the valuation firms as well as valuation practitioners from the roll of enrolled valuers.

2. Duty of Care

Following the decision in KCB Bank Uganda Limited v Sendagire Joseph & Others Civil Suit No. 640 of 2013, where Hon. Justice David Wangutusi held that;

"The relationship between a valuer and the person who appoints him is that of a professional and a layman".

The Act under Section 36 imposes a duty of care on all licensed valuers to provide the best valuation services to clients that involves prior notice to the owner of the property, physical inspection of the property among others.

Operational implications:

The Banks when engaging a professional valuer will expect the best quality services that are expected of such a valuer and the Banks can hold the valuers and the valuation firms liable in case of failure to meet the standard expected of the valuers. The decision by Lady Justice Dr. Ginamia Melody Ngwatu in Centenary Rural Development Bank v Namulondo Hasifa & Others Civil Suit No. 0355 of 2023 is instructive on the consequences of negligence by valuers when undertaking their mandate.

3) Offences and Penalties

The Act under Section 37 introduces offences and penalties on valuers in case their actions fall below the standard expected of valuers. Such actions include making a false statement in a report, failure to report an alteration in a valuation report, impersonating a certified valuer inter alia.

Operational implications:

The Banks' operations are safeguarded as they will deal with duly licensed valuers whose reports must meet a threshold expected of licensed valuers.

RECOMMENDED MEASURES FOR FINANCIAL INSTITUTIONS.

a) Engage duly licensed valuers and valuation firms.

b) Extensively outline the set of instructions given to valuers and valuation firms

CONCLUSION.

The Valuation Act, 2026 has put in place a legal regime that regulates valuation services by professionalized valuers that will provide quality valuation services. This in turn strengthens Uganda's valuation regime through enhanced enforcement powers, stricter compliance obligations, heavier penalties, and stronger oversight mechanisms.

The Banks should therefore ensure that they only engage duly licensed valuation personnel to offer valuation services.