



THE BANKING AND FINANCIAL INSTITUTIONS ACT
(CAP. 342)

REGULATIONS

(Made under section 71)

THE BANKING AND FINANCIAL INSTITUTIONS (CREDIT
CONCENTRATION AND OTHER EXPOSURE LIMITS)
REGULATIONS, 2014

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Banking and Financial Institutions (Credit Concentration and Other Exposure Limits) Regulations, 2014.
- Application 2. These Regulations shall apply to all banks and financial institutions except where prescribed otherwise by the Bank in any other Regulations.
- Interpretation 3. In these Regulations, unless the context otherwise requires-
- "Act" means the Banking and Financial Institutions Act;
 - "affiliate" has a meaning ascribed to it in the Act;
 - "allied undertakings" include business of insurance, securities trading, credit card services, and such other activities as may be specified by the Bank;
 - "associate companies" means two or more companies linked directly or indirectly to each other through any of the following means-

15. Monitoring of credit accommodation.
16. Transactions with insiders.
17. Conditions for credit accommodations to insider.
18. Credit limit to single insider.
19. Aggregate credit limit to insiders.
20. Restriction on unsecured credit accommodation.
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 - "allied undertakings" include business of insurance, securities trading, credit card services, and such other activities as may be specified by the Bank;
 - "associate companies" means two or more companies linked directly or indirectly to each other through any of the following means-

- (a) ownership, control or power to vote, of ten per cent or more of the issued and outstanding voting shares of any of the companies;
- (b) common officer or directorship;
- (c) common shareholders owning ten per cent or more of the issued and outstanding voting shares of the companies;
- (d) management contract or any arrangement granting power to a company to direct or cause the direction of the management and policies of another company;
- (e) permanent proxy or voting trust in favour of a company involving ten per cent or more of the issued and outstanding voting shares of another company;
- (f) companies with cross-guarantee; and
- (g) direct commercial interdependency, which cannot be substituted in the short-term.

“Bank” means the Bank of Tanzania;

“bank” has the meaning ascribed to it in the Act;

“conflict of interest” means a situation in which someone in a position of trust has competing professional, business or personal interest, making it difficult to fulfil his duties impartially;

“connected party” has the meaning ascribed to it in the Act;

“credit accommodation” means loans, overdrafts and advances, leasing, acceptances, performance and bid bonds, letters of credit, guarantees, foreign exchange contracts or any other form of a direct or indirect financial obligation including interest due and unpaid to a bank or financial institution;

“credit risk” means the risk arising from non-payment of principal or interest of credit accommodation on a timely basis, or failure by the customer or a person to honour his commitment under a credit, guarantee or surety agreement or the risk of default by a party to a foreign exchange contract;

"direct credit accommodation" means credit facility in which the borrower or obligor is a party on his own behalf, or the representative or agent of another person, or as a co-signer, mortgagor, guarantor, endorser or surety;

“financial institution” has the meaning ascribed to it in the Act;

"firm underwriting commitment" in respect to underwriting of securities, means a firm guarantee or commitment made by a person or entity to an issuer or holder of securities to raise funds for the issuer or holder by the distribution of such securities for sale, resale, or subscription, either through an outright purchase or a commitment to purchase the balance not subscribed or sold;

"first class international bank" has the meaning ascribed to it in the Act;

“first class international financial institution” means an international insurance company, international development finance institution or other international financial institution that has a minimum long-term rating by internationally recognized rating agencies of “A” or above;

“foreign exchange placement” means an amount of foreign currency held or placed with other banks or financial institutions outside the United Republic;

"indirect credit accommodation" means a credit accommodation given by a bank or financial institution to a person's related party;

“insider” means directors, officers or significant shareholders of a bank or financial institution and their related party;

“large exposure” means a credit accommodation to a single borrower which represents ten per cent or more of the core capital of a bank or financial institution concerned;

"loans and advances" means bills discounted, overdraft, leasing, export bills purchased, other bills received or purchased, import bills, customer's liability for acceptances, drawings against uncleared effects, encashment of cheques drawn against other branches or offices where the drawer's current account has insufficient cleared and withdrawable balance or against other banks, or any other credit extended to a person by a bank or financial institution, and it excludes the undrawn or unavailed balance of any line of credit;

"member of a family" means parent, spouse, brother, sister, child, uncle, aunt, nephew, niece, stepfather, stepmother, stepchild, and adopted child of the person concerned, and in case of an adopted child his adopter or adopters;

"parent company" means a company which directly or indirectly owns, controls, or holds with power to vote, more than fifty percent of the issued and outstanding voting shares of another company;

"related party"

(a) in relation to a body corporate means-

- (i) its holding company or its subsidiary;
- (ii) a subsidiary of its holding company;
- (iii) a holding company of its associates;
- (iv) any person who controls the company or body corporate whether alone or with his related party or with other related parties of it; and

(b) in relation to an individual means-

- (i) any member of his family;
- (ii) any company or other body corporate controlled directly or indirectly by him whether alone or with his related parties; and
- (iii) any related party of his related parties and it includes connected party;

“subsidiary” means a company in which more than fifty percent of its total issued and outstanding voting shares are directly or indirectly owned or controlled by the parent company; and
"unsecured" has the meaning ascribed to it in the Act.

Objectives

- 4.** The objectives of these Regulations are to-
- (a) encourage risk diversification and limit excessive concentration of risk by any bank or financial institution;
 - (b) promote arm's length relationship in dealings between a bank or financial institution and its insiders; and
 - (c) prescribe limits for investments in equity and fixed assets.

PART II CREDIT CONCENTRATION LIMITS

Board
responsibility

5.-(1) The Board of Directors of a bank or financial institution shall ensure that policies consistent with principles set out in the Risk Management Guidelines for Banks and Financial Institutions issued by the Bank are put in place, and shall be fully responsible and accountable for the execution of such policies.

(2) The policies referred to in sub-regulation (1) shall include-

- (a) procedures for identifying risk concentration;
- (b) internal limits on risk concentration including corresponding controls and approval procedures in conformity with legal and supervisory limits; and
- (c) periodic review of the effectiveness of monitoring and reporting systems for risk concentration.

Single
borrower's
limit

6. The total amount of credit accommodation which any bank or financial institution may , directly or indirectly grant to any person and his related parties shall not exceed the following limits-

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<i>Collateral Position</i>	<i>Limit (as a percentage of core capital)</i>
Secured by collateral the value of which is at least 125% of the credit accommodation deemed by it (fully secured)	25%
Secured by collateral the value of which is less than 125% of the credit accommodation secured by it (partly secured)	10%
Unsecured	5%

Exceptions to single borrower's limit

7.-(1) A bank or financial institution may exceed the limits prescribed under regulation 6 provided that the amount in excess of single borrower's limit-

- (a) is granted to, or the repayment of which is guaranteed by the Government of the United Republic;
- (b) is secured against cash, fixed deposit, treasury bills, notes or bonds, or other instruments as the Bank may approve; or
- (c) the repayment of which is unconditionally and irrevocably guaranteed by a first class international bank or a first class international financial institution.

(2) Where a bank or financial institution grants a credit accommodation in accordance with sub-regulation (1), it shall, within seven days from the date it approves the credit accommodation, notify the Bank and submit a copy of the collateral documents or guarantee.

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Funding
from parent
company

8.-(1) A bank or financial institution which is a subsidiary of a foreign bank or financial institution may exclude from the aggregate and single borrower's credit limits prescribed in these Regulations any credit accommodation for which the parent company has provided funds and has assumed both the credit and foreign exchange risks without recourse to the subsidiary.

(2) Where a subsidiary of a foreign bank or financial institution approves exclusion of any credit accommodation in accordance with sub-regulation (1), it shall, within seven days from the date of such approval, notify the Bank.

Credit
accommoda
tion to
banking
group

9. The aggregate of all credit accommodations extended by a bank or financial institution to its parent company, subsidiaries and associate companies, partners and partnerships shall not exceed the credit concentration limit prescribed in regulation 6.

Treatment
of related
parties

10. Where the Bank determines that the interests of two or more persons are interrelated for the purposes of regulation 6, the total credit accommodations to such persons shall be combined and deemed to be extended to a single person.

Aggregate
large
exposures
limit

11. Aggregate large exposures shall not exceed eight hundred percent of core capital of the lending bank or financial institution.

Interbank Exposure Limit **12.** A bank or financial institution shall not deposit in a single bank or financial institution, an amount exceeding twenty five per cent of its core capital.

Placements between affiliated banks in Tanzania **13.** Any placement between affiliated banks or financial institutions in Tanzania shall be considered as insider transactions and be subject to regulation 15.

Placements abroad **14.** Any foreign exchange placement abroad shall not be subject to these Regulations.

**PART III
INSIDER TRANSACTIONS**

Monitoring of credit accommodation **15.** A bank or financial institution shall establish systems to identify and monitor credit accommodation to its insiders.

Transactions with insiders **16.** Any transactions of a bank or financial institution with any of its insider shall be on terms no more favourable than would be available to others.

Conditions for credit accommodations to insiders **17.-(1)** A bank or financial institution shall not directly or indirectly grant any credit accommodation to any of its insiders unless the credit accommodation has been unanimously approved by all members of the board of directors in a meeting where any director or alternate director who stands to benefit from the credit has inhibited himself from attending.

(2) Where a bank or financial institution grants a credit accommodation to an insider in accordance with sub-regulation (1), it shall, within seven days from the date it grants the credit accommodation, notify the Bank.

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Credit limit to single insider

18.-(1) The total amount of credit accommodation which any bank or financial institution may grant, directly or indirectly, to any insider shall not exceed ten percent of the core capital of the bank or financial institution.

(2) The limit prescribed under sub-regulation (1) shall apply regardless of the type and value of security held.

Aggregate credit limit to insiders

19.-(1) A bank or financial institution shall not, directly or indirectly, grant to its insiders credit accommodations whose aggregate amount exceeds twenty five percent of its core capital.

(2) The limit referred to under sub-regulation (1) shall apply to a person who has ceased to be an insider unless two years have elapsed from the date when such a person ceased to be an insider.

Restriction on unsecured credit accommodation

20. A bank or financial institution shall not grant any unsecured credit accommodation to insiders except as set out under regulation 21(1).

Loans to employees

21.-(1) A bank or financial institution shall not grant salary advances to any of its officers and employees, which exceed the annual remuneration of the borrowing officer or employee.

(2) For purposes of sub regulation (1) the annual remuneration of an officer or employee shall be the basic salary plus fixed allowances paid in cash to the officer or employee on a regular and periodic basis as part of his compensation for services rendered to the bank or financial institution.

(3) The provisions of sub-regulation (2) shall not apply to benefits or entitlement which depends on a contingency such as medical and hospitalization benefits or allowances for attending seminars, meeting or other non-cash benefits.

(4) Loans and advances to officers and employees of bank or financial institution granted as incentives shall be managed in accordance with a well-documented policy regarding administration of such facilities.

(5) Commercial loans and advances to officers and employees of a bank or financial institution shall be in the regular course of business and on terms not more favourable than would be available to other borrowers.

PART IV
LIMITATIONS ON EQUITY INVESTMENTS AND
UNDERWRITING COMMITMENTS

Prior approval for equity investments	22. A bank or financial institution shall not engage in equity investment without obtaining prior approval of the Bank.
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Total equity investment and credit accommodations	23. The total equity investments and credit accommodations by a bank or financial institution in any single company shall not exceed twenty five per cent of its core capital.
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| Aggregate equity investments in all companies | 24. The aggregate equity investments by a bank or financial institution in all companies shall not exceed twenty five per cent of its core capital. |
| Equity investment In allied undertaking | 25. Subject to regulation 26, the equity investment by a bank or financial institution in any single allied undertaking shall not exceed ten percent of the core capital of the bank or financial institution. |
| Equity investment in other companies | 26. The equity investment by a bank or financial institution in any single company other than an allied undertaking shall not exceed five per cent of the total subscribed share capital of the investee company. |
| Capital requirements | 27. A bank or financial institution which has a core capital of less than fifteen billion shillings shall not invest in the equity of other companies. |
| Underwriting on own account | 28. A financial institution which is licensed by the Bank to engage primarily in the business of investment banking or underwriting debt or equity securities shall not undertake underwriting commitments for its own account in an aggregate amount exceeding eight hundred percent of its core capital. |

PART V
LIMITATION AND REPORTING ON INVESTMENTS IN FIXED ASSETS

- Restrictions on investments in fixed assets
- 29.** A bank or financial institution may purchase, acquire or lease fixed assets where it is necessary for its business, including reasonable provision for anticipated future expansion and housing of its officers or employees, provided that-
- (a) the total investment of the bank or financial institution in such fixed assets at depreciated net book value, shall not exceed seventy percent of its core capital; and
 - (b) the limitations under this regulation shall not apply to-
 - (i) the acquisition of any asset in settlement of a debt to the bank or financial institution provided that the asset is sold within three years of its acquisition date or within a period approved by the Bank; and
 - (ii) institutions carrying on the business of mortgage financing and property acquired for leasing activities.

- Reporting requirements
- 30.** A bank or financial institution shall report its investment in fixed assets to the Bank in the form and frequency prescribed by the Bank.

PART VI
GENERAL PROVISIONS

- Sanctions
- 31.**-(1) Without prejudice to penalties and actions prescribed by Act, the Bank may impose on any bank or financial institution any of the following sanctions for non-compliance-
- (a) a penalty of the amount to be determined by

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- the Bank;
- (b) prohibition from declaring or paying dividends;
- (c) suspension of the privilege to issue letters of credit or guarantee;
- (d) suspension of access to credit facilities of the Bank;
- (e) suspension of lending and investment operations;
- (f) suspension of capital expenditure;
- (g) suspension of the privilege to accept new deposits;
- (h) revocation of banking license;
- (i) suspension from office of the defaulting director, officer or employee; and
- (j) disqualification from holding any position or office in any bank or financial institution under the supervision of the Bank.

(2) The penalty referred to in paragraph (a) of sub regulation (1) shall apply to directors, officers or employees of the bank or financial institution.

Revocation
GN No. 376
of 2008

32. The Banking and Financial Institutions (Credit Concentration and Other Exposure Limits) Regulations, 2008 are hereby revoked.

Dar Es Salaam,
....., 2014

BENNO J. NDULU
Governor