Seychelles

Financial Institutions Act

Financial Institutions (Capital Adequacy) Regulations, 2010

Statutory Instrument 73 of 2010

Legislation as at 1 December 2014

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Contents

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Statutory Instrument 73 of 2010

Commenced on 15 November 2010

[This is the version of this document at 1 December 2014.]

1. Citation

These Regulations may be cited as the Financial Institutions (Capital Adequacy) Regulations, 2010.

2. Interpretation

In these Regulations—

"**average annual gross income**" means the average of the positive gross income for the preceding 3 years where gross income equals the sum of the net interest income and non-interest income;

"**capital base**" means the sum of tier 1 capital and eligible tier 2 capital net of any deductions from total capital as prescribed in Schedule 1;

"**core capital**" otherwise referred to as tier 1 capital, means capital for the purpose of computing risk weighted capital adequacy ratio;

"**risk-adjusted assets**" means the sum of the credit risk and operational risk components where—

(a) "**credit risk component**" means the sum of the risk adjusted values of the bank's assets and off balance sheet assets using four steps—

(i) Assign the bank's on-balance sheet assets to categories having an assigned credit risk-weight using the prescribed guidelines in Schedule 2;

(ii) Convert the bank's off-balance sheet accounts to credit-equivalents by using the credit conversion factors prescribed in Schedule 3 then, assign each credit-equivalent to a credit-risk category in Schedule 2;

(iii) Calculate the risk-adjusted value of the assets and off-balance-sheet items by multiplying the amount of each asset and off-balance sheet assets by the percentage risk-weight to which it was assigned;

(iv) Sum the risk-adjusted values of the bank's assets and off-balance sheet accounts.

(b) "**operational risk component**" is calculated using the following two steps—

(i) Derive the bank's average annual gross income for the preceding three years; use only such years with positive gross income, and base the average on that number of years;

(ii) Multiply the bank's average annual gross income computed under (i) by 1.25.

3. Application

(1) These Regulations shall apply to all banks that are licensed by the Central Bank pursuant to section 6 of the Act to engage in banking business or offshore banking business and are applicable to each bank individually and on a fully consolidated basis to each bank and its holding company and banking group, if applicable.

(2) When a banking operation is conducted by way of a branch of a foreign bank, the role of the board of directors shall be assumed by the head office, which shall ensure that its branch is in compliance with applicable laws, regulations, guidelines and other prudential directives.

4. Minimum capital requirement

(1) Every bank shall at all times maintain in Seychelles unimpaired paid-up capital or assigned capital, as the case may be of not less than R20,000,000.

(2) Notwithstanding subregulation (1), banks licensed to solely conduct offshore banking business shall at all times maintain in Seychelles paid-up capital or assigned capital, as the case may be, of not less than 2,000,000 United States dollars or its equivalent in any freely convertible currency.

(3) Notwithstanding subregulation (1), the Central Bank may authorise an existing bank to maintain, for such period of up to December 31st 2012, its paid-up capital which was in existence prior to the date of commencement of these Regulations.

5. Minimum capital ratios

(1) Each bank, whether licensed to engage in domestic or offshore banking business, shall maintain the following capital ratios—

(a) Capital Adequacy Ratio must meet or exceed 12% where - Capital Adequacy Ratio is equal to capital base divided by risk adjusted assets, expressed in percent: (capital base/risk-adjusted assets) x 100;

(b) Core Capital Ratio must meet or exceed 6% where Core Capital Ratio is equal to tier 1 capital divided by risk-adjusted assets, expressed in percent: (tier 1 capital/risk-adjusted assets) x 100.

6. Restriction on capital distribution

No bank shall make a capital distribution, including payment of dividends, unless the bank exceeds, and will continue to exceed after making the distribution, the minimum capital ratios.

7. Reporting requirements

Within 15 days after the end of each month, and in the format prescribed by the Central Bank, each bank shall submit to the Central Bank a report showing the calculation of the tier 1 and tier 2 capital, the capital base, risk-adjusted assets and the capital ratios in accordance with these Regulations.

Schedule 1 (Regulation 2)

Definition of capital included in the capital base

"tier 1 capital" means the sum of (a) to (f) minus (g) below—

(a) Unimpaired ordinary paid-up share capital; or assigned capital in the case of a foreign bank;

(b) Unimpaired paid-up non-cumulative perpetual preference shares;

(c) Share premium;

(d) The statutory Reserve Fund, established and maintained pursuant to section 24 of the Act;

(e) Retained profits brought forward from the previous financial year as in the last audited accounts less any accumulated losses;

(f) Current unaudited losses which means any unadjusted net loss incurred since the closing date of the last audited accounts, entered as a negative figure;

(g) Goodwill.

"tier 2 capital" means the sum of (a) to (d) below, which should be limited to a maximum of 100% of the total tier 1 capital—

(a) Year-to-date net profit after tax;

(b) Hybrid (debt/equity) capital instruments that have been deemed satisfactory by the Central Bank;

(c) Subordinated term debt that has been deemed satisfactory by the Central Bank: provided that, the total amount of subordinated term debt eligible for inclusion in tier 2 capital shall be limited to a maximum of 50% of the amount of tier 1 capital be unsecured, have a maturity of no less than five years and during the last five years to maturity, the amount counted as capital will be reduced each year by 20% of the original maturity; and

(d) General provisions and/or general loan loss reserves: provided that, the amount shall not exceed 1.25% of the total amount of risk-adjusted assets.

Deductions from total capital—

(a) Investments in unconsolidated subsidiaries;

(b) Holdings of other financial institutions' capital instruments which may include shares, hybrid capital instruments, subordinated term debt in order to avoid "double-leveraging"; and

(c) Connected lending of a capital nature.

Schedule 2 (Regulation 2)

Risk-weighting of on-balance sheet assets

Instructions

1. Banks must assign their on-balance sheet assets to one of the relative risk categories in the following table.

2. All assets must be assigned except for those assets which are required to be deducted from capital as per Schedule 1.

3. The amount of each on-balance sheet asset should be reported net of specific provisions and interest-in-suspense.

Cash (in Seychelles Rupees).	0%
Claims on the Government of Seychelles and the Central Bank of Seychelles.	0%
Foreign notes and coins.	0%
Claims on Organisation of Economic Co-operation and Development (OECD) central governments and central banks.	0%
Claims on non-OECD central governments and central banks denominated in the national currency (of the debtor) and funded by liabilities in the same currency.	0%
Claims collateralised by cash, or securities issued by the Government of Seychelles, Central Bank of Seychelles and OECD central governments.	0%
Claims guaranteed by the Government of Seychelles, Central Bank of Seychelles, OECD central governments and OECD central banks.	0%
Holdings of fixed interest securities with a residual maturity of 1 year or less and floating rate and index linked securities of any maturity, issued or guaranteed by central governments and central banks of OECD countries and claims fully collateralised by such securities (those over 1 year to be weighted 20%).	10%
Holdings of fixed interest securities with a residual maturity of 1 year or less, and floating rate and index linked securities of any maturity, issued or guaranteed by central governments and central banks of non-OECD countries, and claims fully collateralised by such securities, where denominated in local currency and funded by liabilities in the same currency (those over 1 year to be weighted 20%).	10%
Claims (all maturities) on and claims guaranteed by licenced banks in Seychelles (including branches of foreign banks operating in the Seychelles) and claims collateralised by securities issued by such financial institutions.	20%

Claims on banks incorporated in the OECD and claims guaranteed by such banks.	20%
Claims on multilateral development banks and claims guaranteed by, or collateralised by, securities issued by such banks.	20%
Claims on banks incorporated in countries outside the OECD with a residual maturity of up to one year and claims with a residual maturity of up to 1 year guaranteed by such banks.	20%
Claims on OECD public-sector entities, excluding central government and claims guaranteed by such entities.	20%
Claims on and claims guaranteed by public sector entities established in the Seychelles by individual statute.	20%
Cash items in the course of collection	20%
Loans secured by a mortgage on residential property that is or will be occupied by the borrower or is rented. It is not applicable to loans to companies engaged in speculative residential building or property development. Borrowing by a house owner secured against his/ her house for business, investment or consumption purposes should not be accorded the preferential treatment granted to housing finance for residential purposes.	50%
In the case of qualifying residential mortgage loans, where such loans are past due for more than 90 days.	100%
Claims on banks incorporated outside the OECD with a residual maturity of over one year.	100%
Claims on non-OECD central governments other than those denominated in national currency (of the debtor) and funded in that currency.	100%
Claims on commercial companies owned by the public sector.	100%
Investments in shares (other than those deducted from the capital base).	100%

Other claims on the private sector. These claims would include loans and advances and corporate debt securities.	100%
All other assets.	100%

Schedule 3 (Regulation 2)

Credit-conversion of off-balance sheet

Instructions

1. Banks must assign their off-balance sheet risks to one of the credit conversion categories in the following table.
2. All off-balance sheet risks must be assigned as per the following table.
3. The amount of each off-balance sheet risk is multiplied by the credit conversion factor for the category to which it was assigned.
4. The resulting "credit equivalents" should be assigned to the appropriate risk weight as per Schedule 2.

Instruments	Credit Conversion Factor
Direct credit substitutes, including general guarantees of indebtedness, standby letters of credit serving as financial guarantees, acceptances and endorsements.	100%
Sale and repurchase agreements and asset sales with recourse where the credit risk remains with the bank weighted according to the category of the asset or the issuer of the security (or the borrower in the underlying loan agreement) and not according to the counterparty with whom the transaction has been entered into.	100%
Forward asset purchases, forward deposits placed and the unpaid part of partly-paid shares and securities and any other commitments with a certain drawdown.	100%
Transaction-related contingent items not having the character of direct credit substitutes (e.g. performance bonds, bid bonds, warranties and standby letters of credit related to particular transactions).	50%
Note issuance facilities and revolving underwriting facilities to be applied to the total amount of the institution’s underwriting obligations of any maturity. Where the facility has been drawn down by the borrower and the notes are held by anyone other than the reporting institution, its underwriting obligations must continue to be reported as the full nominal amount. (Own holdings of notes underwritten are, however, deducted from the overall value of the commitment, because they are weighted as an on-balance sheet item).	50%
Other commitments (e.g. formal standby facilities and credit lines) with an original maturity of over 1 year.	50%
Short-term self-liquidating trade-related contingent items (e.g. documentary credits collateralised by the underlying shipments).	20%

Similar commitments with an original maturity of up to 1 year, or which can be unconditionally cancelled at any time.	0%
Endorsements of bills which have previously been accepted by a bank.	0%