Seychelles

Financial Leasing Act, 2013

Financial Leasing (Capital Adequacy and Reserve Fund) Regulations, 2014

Statutory Instrument 113 of 2014

Legislation as at 31 December 2015

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Contents

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1. Citation

These regulations may be cited as the Financial Leasing (Capital Adequacy and Reserve Fund) Regulations, 2014.

2. Interpretation

In these Regulations—

"**Act**" means the Financial Leasing Act, 2013;

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

"**banks**" shall have the meaning ascribed to it under section 2 of the Financial Institutions Act;

"**capital base**" means the sum of tier one capital and tier two capital net of any deductions from total capital as specified in Schedule I;

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

"**deposit-taking financial leasing institution**" means financial leasing institutions licenced under the Act and granted specific approval under section 32(2) of the Act to accept deposits from the public;

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

(a) the credit risk component refers to the sum of the risk-adjusted values of the financial leasing institution's assets using the following steps—

(i) assign the financial leasing institution's on-balance sheet assets having an assigned credit risk-weight using the guidelines set out in Schedule 2 to these regulations;

(ii) calculate the risk-adjusted value of the assets by multiplying the amount of each asset by the percentage risk-weight to which it has been assigned; and

(iii) sum the risk-adjusted values of the financial leasing institution's assets;

(b) the operational risk component is calculated using the following two steps, namely—

(i) derive the financial leasing institution's average annual gross income for the preceding three years; using only such years with positive gross income, and base the average on that number of years; and

(ii) multiply the financial leasing institution's average annual gross income computed under 2(b)(i) by 1.25;

"**licensee**" means a financial leasing institution licenced under the Act;

"**standard asset**" means any asset that may be easily resold;

"**specific asset**" means any asset that is difficult to resell.

3. Application

(1) Unless otherwise provided, these regulations shall apply to financial leasing institutions that are licenced by the Central Bank pursuant to the Act.

(2) Banks licenced under the Financial Institutions Act and authorised under the Financial Leasing Act to engage in financial leasing business as part of its banking licence, shall, in addition to the risk-weightings provided for its usual operations under the Financial Institutions (Capital adequacy) Regulations, 2010, additionally apply the risk-weightings provided under Schedule II of these regulations expressly in respect of its financial leasing operations.

4. Minimum capital requirement

(1) Every financial leasing institution, excluding banks authorised to engage in financial leasing business, shall at all times maintain in Seychelles unimpaired paid-up capital or assigned capital, as the case may be of not less than SCR2,000,000.

(2) A financial leasing institution which has been authorised to accept deposits from public under section 32(2) of the Act shall, notwithstanding subregulation (1), at all times maintain in Seychelles unimpaired paid-up capital or assigned capital, as the case may be of not less than SCR10,000,000.

(3) A subsidiary of a bank applying for a licence to conduct financial leasing business shall be required to abide to subregulation (1) or (2), as the case may be.

(4) The Central Bank may at any time specify additional capital requirements for one or more class of financial leasing institution based on its risk profile or market developments, as the case may be.

(5) A financial leasing institution shall not reduce its paid-up capital or its assigned capital, as the case may be, without the prior written approval of the Central Bank.

5. Deposit of paid-up capital

Every financial leasing institution not being a bank shall at all times invest or deposit at least half of its paid-up capital in a bank, Treasury Bill of other Government securities of not more than 365 days.

6. Minimum capital ratios

(1) Each financial leasing institution excluding banks shall maintain the following capital ratios, namely—

(a) capital adequacy ratio in excess of 12%, where - capital adequacy ratio is equal to capital base divided by risk adjusted assets, expressed in percentage, (capital base / risk-adjusted assets) x 100;

(b) core capital ratio in excess of 6% where - core capital ratio is equal to tier one capital divided by risk-adjusted assets, expressed in percentage, (tier one capital / risk-adjusted assets) x 100.

(2) Where the capital base of a financial leasing institution has become deficient in terms of subsection (1) but remains above eight percent of the total value of its assets determined on a risk-adjusted basis, the Central Bank may grant the institution such period of time of up to one year as, in the circumstances, it considers reasonable to enable the institution to make good the deficiency.

7. Restriction on capital distribution

A financial leasing institution shall not pay any dividend on its shares and a foreign financial leasing institution shall not transfer overseas any profits earned in Seychelles, unless the Central Bank is satisfied, that—

(a) all capitalised expenses and items of expenditure not represented by tangible assets have been written off;

(b) the payment of dividend or any other transfer from profits will not cause the financial leasing institution to be in contravention of the requirement in capital adequacy, reserve fund, liquidity or any other prudential requirement deemed relevant or likely to impair the future capital adequacy or liquidity of the financial leasing institution; and

(c) provisions have been made in respect of impaired financial leases.

8. Reserve fund

(1) Every deposit-taking financial leasing institution, shall maintain a reserve fund and, out of the net profits of each year, before any dividend is declared or any profits are transferred to the head office or elsewhere, transfer to that reserve fund a sum equivalent to not less than 20 percent of those profits until the amount of the reserve fund is equal to the paid-up or assigned capital, as the case may be.

(2) Every bank which has been granted approval to engage in financial leasing business pursuant to section 36 of the Act as part of its banking business licence shall maintain a reserve fund in accordance with the provisions of the Financial Institutions Act, 2004 and regulations made thereunder.

(3) The Central Bank shall from time to time determine the method of computing the amount and form of the reserve fund.

(4) The reserve fund shall not be reduced or impaired, except as the circumstances which may be provided by the Central Bank.

9. Reporting requirements

Every financial leasing institution shall, within 15 days after the end of each month, and in the format to be provided by the Central Bank, submit to the Central Bank a report showing the calculation of—

(a) tier one and tier two capital;

(b) capital base;

(c) risk-adjusted assets; and

(d) capital ratio.

Schedule I (Regulation 2)

Definition of capital included in the capital base

"**tier one capital**" means the sum of paragraphs (a) to (f), minus paragraph (g)—

(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) statutory Reserve Fund established and maintained pursuant to regulations 8;

(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 two capital**" means the sum of paragraphs (a) to (d), which should be limited to a maximum of 100% of the total tier one 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 two capital shall be limited to a maximum of 50% of the amount of tier one 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 II (Regulation 2)

Credit risk - weight of assets

Asset classes	Risk weight (%)
Cash in hand	0%
Balances with the Central Bank of Seychelles	0%
Claims collateralised by cash deposits placed with the company with a legal right of set-off on the credit balances and meeting the conditions set out below	0%
Claims on or guaranteed by the Government of Seychelles	0%
Holdings of securities issued or guaranteed by the Government of Seychelles, Treasury Bills and Bonds	0%
Claims collateralised by securities issued or guaranteed by the Government of Seychelles, Treasury Bills and Bonds	0%
Claims on, or claims guaranteed or accepted or endorsed by, banks licenced under the Financial Institutions Act	20%
Aggregate financial leases to an individual or group of closely, related individuals (natural persons) not exceeding SCR2.0 million—	
Financial Leases of Standard assets with residual value of less than or equal to 15 percent—	
Asset value less than or equal to SCR2 million	40%
Asset value in excess of SCR2 million	50%
Financial Leases of Standard assets with residual value in excess of 15 percent—	
Asset value less than or equal to SCR2 million	50%
Asset value in excess of SCR2 million	75%

Aggregate financial leases to a business entity or group of closely related business entities not exceeding SCR5.0 million—	
Financial Leases of Standard assets with residual value of less than or equal to 15 percent—	
Asset value less than or equal to SCR5 million	50%
Asset value in excess of SCR5 million	75%
Financial Leases of Standard assets with residual value in excess of 15 percent—	
Asset value less than or equal to SCR5 million	75%
Asset value in excess of SCR5 million	100%
All other assets not elsewhere specified (including specific assets and excluding intangible assets deducted from capital)	100%