# LESOTHO
# Government Gazette


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LEGAL NOTICES



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LEGAL NOTICE NO. 48 OF 2016

**Financial Institutions (Prompt Corrective Action) Regulations, 2016**

Pursuant to section 71(1) of the Financial Institutions Act of 2012, I,

**DR. RETŠELISITSOE MATLANYANE**

Governor of the Central Bank, being the Commissioner of Financial Institutions make the following regulations -

PART I - PRELIMINARY

**Citation and commencement**

1. These regulations may be cited as the Financial Institutions (Prompt Corrective Action) Regulations, 2016 and shall come into operation on the date of publication in the Gazette.

**Interpretation**

2. (1) In these regulations unless, the context otherwise requires -

"adequately capitalised" means a bank whose capital meets the required minimum level for each relevant capital measure as specified in the Schedule;

"capital restoration plan" means a plan submitted to restore the capital of the bank to a level acceptable to the Commissioner;

"critically undercapitalised" means a bank whose capital fails to meet any level of capital as specified in the Schedule;

"leverage ratio" means the ratio of a bank's tangible equity to total assets;

"regulatory returns related to risk based capital" means the instructions for the prudential return to be filed by a bank with the Commissioner to reflect its capital adequacy ratio under the Financial Institutions (Risk-

Based Capital) Regulations 2016;

"relevant capital measure" means the capital ratios employed by the Commissioner to gauge the capital adequacy of the bank and includes Total Risk-Based Capital Ratio, Tier I Risk-Based Capital Ratio, and Leverage Ratio;

"significantly undercapitalised" means a bank whose capital falls significantly below the required minimum level for any relevant capital measure as specified in the Schedule;

"the Act" means the Financial Institutions Act 2012;

"tier I risk-based capital ratio" means tier I capital as defined in the Financial Institutions (Risk-Based Capital) Regulations 2016;

"total risk-based capital ratio" means the same as defined in the Financial Institutions (Risk-Based Capital) Regulations 2016;

"undercapitalised" means a bank whose capital fails to meet the required minimum level for any relevant capital measure as specified in the Schedule;

"well-capitalised" means a bank whose capital significantly exceeds the required minimum level for each relevant capital measure as specified in the Schedule.

(2) All other words used have the same meaning ascribed to them under the Act.

**Objective**

3. The objective of these regulations is to outline the Commissioner's powers to intervene in a bank to help restore it to capital adequacy at its earliest possible opportunity to avoid the least possible long-term loss.

**Application**

4. These regulations apply to a bank issued a licence to operate in Lesotho.

PART II - PROMPT CORRECTIVE ACTION

**Prompt corrective action**

5. (1) For the purpose of exercising early intervention powers under the Act and under these regulations, the Commissioner shall categorise banks according to capital standards specified in the Schedule.

(2) The Commissioner may reclassify a bank based on supervisory criteria other than capital.

(3) Without prejudice to the generality of subregulations (1) and (2), the Commissioner may reclassify a bank to comply with certain mandatory or discretionary supervisory actions as if the bank was in the next lower capital category when the Commissioner has determined the bank is in unsafe and unsound condition, or based on the most recent examination of the bank, it has received and not corrected a less than satisfactory rating (rating of 3 or worse) for any of the categories of asset quality, management, earnings, liquidity or sensitivity to market risk provided however that this shall not apply to bank considered to be significantly undercapitalised within the meaning of the Schedule.

(4) The Commissioner shall with immediate effect serve written notice on a bank of its undercapitalisation of any degree within the categories specified under the Schedule.

**Restrictions applicable to banks**

6. (1) A bank shall not -

(a) make capital distribution, whether in the form of a dividend or any other form, if after making the distribution the bank would be undercapitalised within the meaning of the 3 categories of the Schedule, without authorisation by the Commissioner;

(b) pay management fees to any person or company having control of that bank if after making the payment, the bank would be undercapitalised.

PART III - UNDERCAPITALISED INSTITUTIONS

**Capital restoration plan**

7. (1) A bank shall prepare and file with the Commissioner, in writing, a capital restoration plan within 30 days from the date on which that the bank receives notice under regulation 5(4) that it is undercapitalised, significantly undercapitalised or critically undercapitalised.

(2) Financial data submitted in connection with the capital restoration plan required under regulation 7(1) shall be prepared by the bank in accordance with the instructions provided with the Commissioner's regulatory returns related to risk based capital.

(3) The Commissioner shall review and provide written notice to the bank whether the plan is approved or otherwise, within 15 days of receipt or such longer period required by the Commissioner; except that the maximum period of time for review by the Commissioner may not exceed 15 days from the date of initial receipt of the application.

(4) In reviewing the plan under subregulation (3) above, the Commissioner shall satisfy itself as to whether the plan as submitted -

(a) contains the information required under "Contents of plan" in regulation 8;

(b) is based on objective and realistic assumptions;

(c) would not appreciably increase -

(i) the banking risk to which the bank is exposed, including without exclusion, credit, market, liquidity, and operational risks; or

(ii) the risk that the bank's capital situation poses to its depositors and the financial system as a whole.

(5) Where the Commissioner rejects the plan or any part thereof, the bank shall submit a revised capital restoration plan within the time specified by

the Commissioner in the notice under subregulation (3).

(6) A bank which fails to submit or implement an approved capital restoration plan in accordance with this regulation shall be deemed to be "significantly undercapitalised" within the meaning of the Schedule and shall be subject to the Commissioner's corresponding powers outlined in the Schedule.

**Contents of a capital restoration plan**

8. The capital restoration plan required to be filed by the bank under regulation 7(1) shall specify -

(a) the steps that the bank shall take to become adequately capitalised in accordance with the requirements of the Commissioner;

(b) the levels of capital to be attained during each year in which the plan will be in effect;

(c) how the bank will comply with the restrictions or requirements in effect under this section;

(d) the types and levels of activities in which the bank will engage during the period the plan is in effect; and

(e) any other information that the Commissioner shall deem appropriate.

**Monitoring requirement**

9. The Commissioner shall -

(a) monitor the financial condition of any undercapitalised bank within the meaning of the Schedule;

(b) monitor compliance with the bank's capital restoration plans, and restrictions and requirements as may have been imposed on it by the Commissioner;

(c) periodically review the plan, restrictions and requirements applicable to any undercapitalised bank to determine whether the plan, restrictions and requirements are achieving the intended purpose.

**Restrictions on undercapitalised institutions**

10. (1) A bank shall not permit its average total assets during any calendar quarter to exceed its average total assets for the preceding quarter unless the Commissioner has approved a capital restoration plan for such bank under regulation 7, the increase in total assets is consistent with the plan, and the leverage ratio increases during the quarter to enable the bank to become adequately capitalised within the time prescribed in the plan.

(2) An undercapitalised bank shall not, without prior approval in writing from the Commissioner, acquire additional assets, open new branches or relocate branches, or introduce new lines of business.

(3) An undercapitalised bank, within the meaning of 3 categories under the Schedule, shall transact all transactions with affiliates and related parties on an arms-length basis.

**Undercapitalised banks**

11. The Commissioner may, in respect of an undercapitalised bank or a bank that fails to submit a capital restoration plan or which fails to implement such a plan -

(a) require the bank to issue enough of its voting shares to make it adequately capitalised;

(b) require the bank to be sold or merged with another bank, especially if there are grounds for appointing a receiver;

(c) require divestiture from a parent company or an affiliate;

(d) restrict interest rates paid on deposits, restrict activities, or restrict asset growth still further; or

(e) require a change-over in management or the board of directors.

**Temporary administration**

12. (1) Where a bank that is determined by the Commissioner to be critically undercapitalised remains as such after 270 days of being so notified by the Commissioner under regulation 5(4), the Commissioner shall appoint a qualified person under section 58 of the Act to take possession of a bank, or an administrator under section 54 of the Act for temporary administration of the institution

(2) Notwithstanding subregulation (1), the Commissioner shall only appoint a person or administrator in the event that the bank -

(a) still has a positive net worth;

(b) has been in substantial compliance with the capital restoration plan approved by the Commissioner under regulation 7(3);

(c) is profitable or is likely to be profitable relative to projected earnings based on objective and credible assumptions.

**DR. RETŠELISITSOE MATLANYANE**
**GOVERNOR OF THE CENTRAL BANK OF LESOTHO**

SCHEDULE

| Category | Total Risk-Based Capital Ratio | Tier I Risk-Based Capital Ratio | Leverage Ratio | Mandatory Supervisory Action by Commissioner |
|---|---|---|---|---|
| Well Capitalised | 10 percent or greater | 6 percent or greater | 5 percent or greater | |
| Adequately capitalised | 8 percent or greater | 4 percent or greater | 4 percent or greater | |
| Under-capitalised | Less than 8 percent | Less than 4 percent | Less than 4 percent | 1. Restrict payment of dividends or other capital distribution by the bank.<br><br>2. Restrict asset growth (new lending, fixed assets) and investments in other subsidiaries /related companies.<br><br>3. Monitor the financial condition of the bank.<br><br>4. Require the bank to submit a capital restoration plan satisfactory to the Commissioner.<br><br>5. Compliance with capital restoration plans, restrictions and requirements.<br><br>6. Periodically review the plan, restrictions and |

| | | | | |
|---|---|---|---|---|
| | | | | requirements applicable to the bank to determine whether the plan, restrictions and requirements are achieving the intended purpose.<br><br>7. Conduct special examination of the bank if necessary. |
| Significantly undercapitalised | Less than 6 percent | Less than 3 percent | Less than 3 percent | All measures for "Undercapitalised" above and also:<br><br>(a) require the bank to replace management and new directors<br><br>(b) restrict undertaking of any material transaction without Commissioner's approval;<br><br>(c) prohibiting changes in accounting methods except as directed by the Commissioner;<br><br>(d) make final capital call on the bank within 3 months from time of acceptance of the capital restoration plan. |

| | | |
|---|---|---|
| Critically Undercapitalised Banks | 2 percent or less | All the above and also take over management and control of the bank through a receiver or administrator or conservator for rehabilitation or resolution, as the case may be. |

LEGAL NOTICE NO. 49 OF 2016

**Financial Institutions (Risk-Based Capital Requirements) Regulations, 2016**

Pursuant to sections 23 and 71(1) of the Financial Institutions Act of 2012, I,

**DR. RETŠELISITSOE MATLANYANE**

Governor of the Central Bank, of Lesotho being the Commissioner of Financial Institutions make the following regulations -

PART I - PRELIMINARY

**Citation and commencement**

1. These regulations may be cited as the Financial Institutions (Risk-Based Capital Requirements) Regulations, 2016 and shall come into operation on the date of publication in the Gazette.

**Interpretation**

2. (1) In these Regulations unless, the context otherwise requires,

"conversion factor" means the risk weights as enumerated in regulation 6 for the risk weighting of on-and off-balance sheet accounts;

"OECD" means the Organisation of Economic Co-operation and Development;

"SADC" means the Southern African Development Community;

"the Act" means the Financial Institutions Act 2012;

"tier I" or "core capital" means the components of capital as enumerated in regulation 5(2);

"tier II" or "supplementary capital" means the components of capital as enumerated in regulation 5(3);

"total qualifying capital" means the sum total of tier I and tier II capital.

(2) All other words used have the same meaning ascribed to them under the Act.

**Objectives**

3. The objectives of these regulations are -

(a) to ensure that a bank maintains an adequate level of capital to protect its depositors and creditors and to promote public confidence; and

(b) to prescribe a capital adequacy ratio computed according to the Basel Committee on Banking Supervision which takes into consideration the different levels of credit and market risks inherent in a bank's balance sheet and off-balance sheet activities.

**Application**

4. These regulations shall apply to a bank issued a licence under the Act.

PART II - REGULATORY PROVISIONS

**Capital adequacy ratio**

5. (1) A bank shall maintain at all times a capital base of an amount not less than 8 percent of its weighted risk assets (hereinafter referred to as "Capital Adequacy Ratio") or such other percentage as the Commissioner may

prescribe from time to time.

(2) A bank shall compute the capital adequacy ratio under subregulation (1) in accordance with the Basel Committee on Banking Supervision particularly the Basel I Accord and its amendments, subject to modifications to suit local conditions as may be approved by the Commissioner.

(3) The capital adequacy ratio framework to be generally enforced by the Commissioner shall pay particular attention to the assessment of capital in relation mainly, to credit risk but shall also take into account foreign exchange risk, interest rate risk and other risks as may be necessary for any particular bank.

(4) In addition to the capital adequacy ratio computation specified in subregulation (2), a bank shall compute a capital charge in accordance with the requirements of Basel I Accord to account for risks under derivative contracts and for market risks, especially interest rate risk and foreign exchange risk.

(5) The capital adequacy ratio required to be maintained by a bank under subregulation (1) shall be computed by using the Capital Adequacy Ratio Worksheet set out in the Schedule 1, along with supporting Schedules 1A, 1B and 1C, which shall be submitted to the Commissioner not later than 30 days from the end of each calendar quarter.

(6) A bank which fails to comply with the minimum capital adequacy ratio on the date on which these regulations come into effect shall, within 60 days, submit for approval by the Commissioner, a detailed plan describing the means and specifying the time-table by which the bank shall meet the requirement and thereafter comply with it.

(7) A bank shall submit quarterly reports of compliance together with the plan approved under subregulation (6), to the Commissioner using the Capital Adequacy Ratio Worksheet in Schedule 1.

**Constituents of capital**

6. (1) A bank's capital base for the purpose of these regulations shall consist of tier I or core capital and tier II or supplementary capital.

(2) Tier I capital or core capital shall be no less than 50percent of the total qualifying capital and shall consist of -

(a) issued and fully paid ordinary shares or common stock and related surplus (share premium) or assigned capital of a bank;

(b) fully paid-up perpetual non-cumulative preference shares and related surplus of a bank if the preference shares -

(i) do not have a maturity date;

(ii) cannot be redeemed at the option of the shareholder;

(iii) give the issuer the legal right to defer or eliminate preferred dividends; and

(iv) have no other provisions that will require their future redemption;

(c) a reserve account as required by section 22(3) of the Act;

(d) capital reserves excluding asset revaluation reserves;

(e) general reserves excluding reserves or provisions for identified losses or in respect of an identified deterioration in the value of any asset; and

(f) retained earnings as stated in the latest audited financial statements of the bank.

(3) Tier II capital or supplementary capital shall be limited to 100 percent of tier I or core capital, and shall consist of -

(a) fixed assets revaluation reserves arising from a prudent revaluation of an immovable property capital adequacy ratio carried out by independent professional appraisers on a basis satisfactory to both the Commissioner and the external auditors;

(b) securities revaluation reserves which arise from the practice of holding securities in the balance sheet valued at historic cost and the difference between the historic cost and the market value shall be discounted by 55 percent;

(c) undisclosed or hidden reserves accepted by the Commissioner which have the same intrinsic quality as published retained earnings and which represent accumulations of post-tax profits which are not encumbered by any known liability and are not routinely used for absorbing operating losses;

(d) general provisions or general reserves for losses on assets, which refer to provisions and reserves not ascribed to specific assets. General provisions or general reserves made for specific assets are not eligible for inclusion in capital. General provisions or general loan loss reserves that qualify for inclusion in Tier II capital do so subject to a limit of 1.25 percent of weighted risk assets;

(e) hybrid debt capital instruments which refer to a range of instruments that combine the characteristics of equity capital and of debt, such as perpetual cumulative preference shares, long term preference shares, perpetual instruments debt and mandatory convertible debt instruments, if they -

(i) are unsecured, subordinated and fully paid;

(ii) are not redeemable at the discretion of the holder;

(iii) they should be available to absorb losses; and

(iv) service obligations attached to the instrument should be deferrable.

(a) subordinated term debt which includes conventional unsecured subordinated debt capital instruments with a minimum original fixed term to maturity of over 5 years and limited life redeemable preference shares.

(4) During the last 5 years to maturity of a subordinated term debt in subregulation (3)(f), a cumulative discount (or amortisation) factor of 20 percent per year shall be applied to ref1ect the diminishing value of these instruments as a continuing source of strength.

(5) Capital instruments and preference shares referred to in subregulation (4) shall be subordinated to the claims of both depositors and general creditors and shall be limited to a maximum of 50 percent of Tier I capital.

(6) The following deductions shall be made from core and total qualifying capital -

(a) from tier I or core capital -

(i) goodwill arising from the acquisition of assets; and

(ii) losses made in current year, whether audited or unaudited;

(b) from total qualifying capital -

(i) investments in unconsolidated subsidiaries engaged in banking or financial activities;

(ii) other intangible assets, including but not limited to, formation and other preliminary expenses;

(iii) deficiencies in provision for losses on loans and other assets as may be determined by the Commissioner unless a significant improvement in the quality of the assets is reported by the bank and accepted by the Commissioner; and

(iv) other deductions which may impair, distort or dilute core capital as may be determined by the Commissioner.

**Weighted risk assets**

7. (1) For the purpose of these regulations -

(a) 'weighted risk assets' shall consist of On-Balance Sheet Assets and Off-Balance Sheet Accounts.

(b) 'On-Balance Sheet Assets' refer to assets appearing in the Balance Sheet or Statement of Assets and Liabilities which shall be multiplied by the applicable risk weights as set out in this regulation.

(c) 'Off-Balance Sheet Accounts' refer to contingent ac counts and other off-balance sheet terms which shall be multiplied by the applicable risk weights as set out in this regulation.

(2) The risk weight for the following shall be zero percent -

(a) local and foreign currencies;

(b) balances due from the Commissioner including securities issued by it or loans guaranteed by such securities;

(c) treasury bills and other securities issued or guaranteed by the Lesotho Government or loans guaranteed by such securities;

(d) claims or loans to local governments, statutory boards and other public sector entities fully guaranteed by the Lesotho Government;

(e) claims on OECD countries and approved regional countries' central banks and central governments and other obligations fully guaranteed by these institutions; and

(f) claims fully secured by cash deposited with the reporting bank or by Lesotho Government or Central Bank securities and guarantees.

(3) The risk weight for the following shall be 20 percent -

(a) claims on banks and other financial institutions licensed in Lesotho or in OECD countries or approved regional countries and loans guaranteed by such institutions;

(b) claims on multilateral institutions and claims guaranteed or collateralised by securities issued by such institutions;

(c) balances due from banks and other financial institutions licensed in other countries with residual maturity of one year or less; claims on public sector entities of OECD countries not included in subregulation (3)(a) and those of approved regional countries' public sector entities and loans guaranteed by or collateralised by securities issued by such entities; and

(d) cash items in the process of collection.

(4) The risk weight for real estate housing loans fully secured by mortgages on residential properties which are owner-occupied or rented shall be 50 percent.

(5) The risk weight for the following shall be 100 percent -

(a) claims on the private sector;

(b) other loans and advances;

(c) premises, plant and equipment and other fixed assets;

(d) real estate-and equity, investments;

(e) capital instruments issued by other financial institutions (unless deducted from capital); and

(f) all other assets.

(6) The following amounts shall be deducted from the total weighted on-balance sheet accounts -

(a) specific accumulated provision made for losses on assets (if corresponding assets are presented at gross in the balance sheet);

(b) general reserves or provisions for losses on assets disallowed under tier II capital (if corresponding assets are presented at gross in the balance sheet);

(c) deficiencies in provisions for losses on loans and other assets as may be determined by the Commissioner unless a significant improvement in the quality of the assets is reported by the bank and accepted by the Commissioner; and

(d) other deductions from core capital or total qualifying capital such as goodwill and other intangible assets, and investments in unconsolidated subsidiaries engaged in banking or financial activities.

(7) Off-Balance Sheet Accounts shall be multiplied by the applicable conversion factors to arrive at the credit equivalent amount which shall then be weighted accordingly to the applicable risk weights used for on-balance sheet accounts -

(a) 100 percent conversion factor for the following-

(i) items which substitute for loans and advances such as financial guarantees, including standby letters of credit and bankers' acceptances;

(ii) sale and repurchase agreements with recourse where the credit risk remains with the financial institution; and

(iii) forward asset purchases; forward deposits and partly paid shares and securities representing commitments with certain draw downs;

(b) 50 percent conversion factor for the following -

(i) certain transaction-related contingent items such as performance bonds, warranties and standby letters of credit related to particular transactions;

(ii) note-issuance facilities and revolving underwriting facilities; and

(iii) other commitments such as formal standby facilities and credit lines with an original maturity of over one year;

(c) 20 percent conversion factor for short-term self-liquidating trade-related contingencies such as documentary credits collateralised by the underlying shipments;

(d) zero percent conversion factor for other commitments such as formal standby facilities and credit lines with an original maturity of up to one year or which can be un conditionally cancelled at any time.

(8) Banks shall employ the current exposure method in calculating the replacement cost of derivative contracts by marking contracts to market value and then adding the prescribed weights to reflect the potential future exposure over the remaining life of the contract.

(9) Derivative accounts to be employed in calculating a capital charge for risk-based purposed are -

(a) interest rate contracts including but not limited to interest rate swaps, basis swaps, forward rate agreements, interest rate future options and interest rate options purchased;

(b) exchange rate contracts including but not limited to cross-currency interest rate swaps, forward foreign ex change contracts, currency future and currency options and gold contracts shall be treated like exchange rate contracts;

(c) equity contracts including but not limited to forwards, swaps, purchased options and similar derivative contracts based on individual equities or on equity indices;

(d) commodity contracts including but not limited to for wards, swaps and purchased options based, for example, on energy, agricultural, precious (other than gold) or non-precious metals commodity contracts.

(10) The potential future credit risk exposure for derivative contracts shall be weighted in accordance with the following weights subsequent to their being marked to market -

(a) interest rate risk: 0.0 percent for one year or less; 0.5 percent for over one year to five years; and 1.5 percent over 5 years;

(b) exchange rate and gold contracts: 1.0 percent for one year or less; 5.0 percent for over one year to 5 years; 7.5 percent for over 5 years;

(c) equity contracts: 6.0 percent for one year or less; 8.0 percent for over one year to five years; 10.0 percent over five years;

(d) precious metals (except gold)contracts: 7.0 percent for one year or less; 7.0 percent for over one year to 5 years; 8.0 percent for over 5 years;

(e) non-precious metals: 10.0 percent for one year or less; 12.0 percent for over one year to 5 years; 15.0 percent for over 5 years;

(11) The resulting amounts resulting from subregulation (12) are converted to an off-balance sheet amount by multiplying the counterparty risk weight.

(12) Instruments traded on exchanges may be excluded where they are subject to daily receipt and payments of cash variation margins.

**Market Risk**

8. (1) For purposes of this regulation -

(a) market risk shall be considered to include foreign ex change risk, commodities risk, interest rate risk (for the trading portfolio only) and equity risk (for the trading portfolio only) and shall be the sum of all such risks;

(b) the capital charges set out in Schedule 2 shall apply .

(2) In computing market risk under subregulation (1), a bank shall use the standardized method under the Basel I Accord.

**Supervisory actions**

9. The Commissioner may require higher minimum capital adequacy ratio for an individual bank based on, but not limited to, any one or more of the following criteria -

(a) if the bank is less than 3 years old;

(b) if the bank has significant exposure to market risk, interest rate risk, liquidity risk, operational risk or other risks arising from non-traditional activities;

(c) if the bank is growing rapidly, either internally or through acquisitions;

(d) if the bank may be adversely affected by the activities or financial condition of its parent or holding company, subsidiaries or affiliates; or

(d) if the bank has severe internal control deficiencies or weak risk management policies and procedures.

**Failure to comply**

10. Where a bank fails to comply with this Risk-Based Capital Requirement, the Commissioner may pursue any remedial measures at its disposal, including

requiring the bank to take any or all of the following measures -

(a) desist from engaging in any further foreign exchange or other market risk or capital market activities;

(b) suspend lending, investment or other credit extension operations;

(c) restrict declaration or payment of dividends or remittance of profits;

(d) stop establishment of new branches or facilities; or

(e) prohibit payment of bonuses, salary incentives, management fees or other discretionary compensation to directors or officers.

**DATED:**

**DR. RETŠELISITSOE MATLANYANE**
**GOVERNOR OF THE CENTRAL BANK OF LESOTHO**

SCHEDULE 1

**(Regulation 5(5))**

Schedules 1A, 1B and 1C

CAPITAL ADEQUACY RATIO WORKSHEET

INSTITUTION ID:

FINANCIAL YEAR:

START DATE:

END DATE:

| ITEM | | | AMOUNT (M 000) |
|---|---|---|---|
| 1. | Total risk-weighted on-balance sheets assets (Schedule I-A) | | |
| 2. | Total risk-weighted off-balance sheet accounts (Schedule I-B) | | |
| 3. | Total risk-weighted assets before deductions (Add Items 1 and 2) | | |
| 4. | Less Deductions: Total (Add 4a to 4e) | | |
| | (a) | Specific accumulated provisions for losses on assets (if assets are stated at gross) | |
| | (b) | General reserves and provisions for losses on assets disallowed under Tier II (if assets are stated at gross) | |
| | (c) | Deficiencies in provisions for losses | |

(d) Other deductions from core and total capital (Add Items d (i) to (d) (iii))

(i) Goodwill

(ii) Other intangible assets such as formation and preliminary expenses

(iii) Investments in unconsolidated financial subsidiaries

(e) Others (as may be determined by the Central Bank)

5. Total risk-weighted assets after deductions (Item 3 less Item 4)

6. Tier I Capital (Schedule I-C)

7. Total Tier I and Tier II Qualifying Capital (Schedule I-C)

Tier I Capital (Schedule I-C) to total risk-weighted assets after deductions (Items 5)

Total Tier I and Tier II qualifying capital (Schedule I-C) to total risk-weighted assets after deductions (Item 5)

SCHEDULE 1A

RISK-WEIGHTED ON-BALANCE SHEET ASSETS

INSTITUTION ID:

FINANCIAL YEAR:

START DATE:

END DATE:

| Category | Assets | Value (V) M000 | Risk Weight (W) | Weighted Value (VxW) M000 |
|---|---|---|---|---|
| 0% Weight | 1. Cash | | | |
| | (a) Local | | | |
| | (b) Foreign | | | |
| | 2. Balances Due from Central Bank | | | |
| | (a) Deposits | | | |
| | (b) Securities | | | |
| | (c) Other claims | | | |
| | 3. Claims on or securities issued or guaranteed by Lesotho Government | | | |
| | (a) Treasury Bills | | | |
| | (b) Government Securities | | | |
| | (c) Other claims on government | | | |

4. Claims on local government, statutory boards and other public sector entities (Guaranteed by Lesotho Government)

    (a) Local Government Securities

    (b) Other claims on local government

    (c) Securities issued by public sector entities

    (d) Other claims on state-owned entities

5. Claims on OECD and approved Regional Countries

    (a) Central Banks

    (b) Central Government

    (c) Other claims guaranteed by (a) and (b) above

6. Fully Secured Claims

    (a) by cash on deposit with the bank itself

    (b) by Lesotho Government or Central Bank securities and guarantees

20% weight

1. Due from banks and other financial institutions

    (a) Licensed in Lesotho

    (b) Licensed in OECD countries

    (c) Licensed in approved regional countries

    (d) Licensed in other countries (residual maturity – 1 year or less)

2. Other claims and loans guaranteed by

banks and other Financial institutions

(a) Licensed in Lesotho

(b) Licensed in OECD countries

3. Claims on or loans guaranteed by multilateral institutions or collateralised by securities issued by such institutions

4. Claims on or loans guaranteed by OECD and approved regional countries' public sector entities

5. Cash items in the process of collection

50% weight — Real estate housing loans fully secured by mortgage on residential properties which are owner-occupied or rented

100% weight — 1. Loans and advances

(a) Commercial

(b) Personal

(c) Other

2. Due from banks and financial institutions licensed in other countries with residual maturity of over 1 year

3. Claims on other foreign governments

(a) Claims on and obligations guaranteed by other foreign Central Banks

(b) Claims on and obligations guaranteed by other Central Governments

4. Fixed Assets

(a) Land and buildings

(b) Furniture and equipment

(c) Other fixed assets

5. Investments

(a) Investments in other financial institutions

(b) Investments in securities and equities

(c) Other investments

6. Other Assets

Total Risk-weighted on-balance sheet assets

SCHEDULE 1B

RISK WEIGHTED OFF-BALANCE SHEET ACCOUNTS

INSTITUTION ID:

FINANCIAL YEAR:

START DATE:

END DATE:

| Category | Accounts/ Counter-Parties | Value (V) | Conversion Factor | Risk Weight (W) | Weighted Value |
|---|---|---|---|---|---|
| | | M 000 | | | (V x W) |
| | | | | | M 000 |
| 0% Weight | 1. Lesotho, OECD and Approved Regional countries' government and central banks | | | | |
| | (a) Financial guarantees, standby letters of credit and bankers' Acceptances (loan substitutes) | | | | |
| | (b) Sale and repurchase agreements with recourse | | | | |
| | (c) Forward asset purchases, forward deposits, partly-paid commitments | | | | |
| | (d) performance bonds, warranties, standby letters of credit (contingent accounts) | | | | |

(e) note-issuance facilities and revolving underwriting facilities

(f) formal standby facilities and credit lines with original maturity of over 1 year

(g) documentary credits collateralised by underlying shipments

(h) revocable standby facilities and credit lines, cancellable any time

(i) formal standby facilities and credit lines with original maturity of up to 1 year

(j) others

2. Lesotho Public Sector Entities and Local Governments (Guaranteed by Lesotho Government)

(a) Financial guarantees, standby letters of credit and bankers' acceptances (loan substitutes)

(b) Sale and repurchase agreements with recourse

(c) Forward asset purchases, forward deposits, partly paid commitments

(d) Performance bonds, warranties, standby letters of credit (contingent accounts)

(e) Note-issuance facilities and revolving underwriting facilities

(f) Formal standby facilities and credit lines with original maturity of over 1 year

(g) Documentary credits collateralised by underlying shipments

(h) Revocable standby facilities and credit lines, cancellable any time

(i) Formal standby facilities and credit lines with original maturity of up to 1 year

(j) Others

20% weight 3. Domestic Financial Institutions, OECD and Approved Regional countries' Financial Institutions and Public Sector Entities and Multilateral Institutions

(a) Financial guarantees, standby letters of credit and bankers' acceptances (loan substitutes)

(b) Financial guarantees, standby letters of credit and bankers' acceptances (loan substitutes)

(c) Forward asset purchases, forward deposits, partly-paid commitments

(d) Performance bonds, warranties, standby letters of credit (contingent accounts)

(e) Note-issuance facilities and revolving underwriting facilities

(f) Formal standby facilities and credit lines with original maturity of over 1 year

(g) Documentary credits collateralised by underlying shipments

(h) Revocable standby facilities and credit lines, cancellable any time

(i) Formal standby facilities and credit lines with original maturity of up to 1 year

(j) Others

100% Weight 4. Private Sector and Other Institutions

(a) Financial guarantees, standby letters of credit and bankers' Acceptances (loan substitutes)

(b) Sale and repurchase agreements with recourse

(c) Forward asset purchases, forward deposits, partly-paid commitments

(d) Performance bonds, warranties, standby letters of credit (contingent accounts)

(e) Note-issuance facilities and revolving underwriting facilities

(f) Formal standby facilities and credit lines with original maturity of over 1 year

(g) Documentary credits collateralised by underlying shipments

(h) Revocable standby facilities and credit lines, cancellable any time

(i) Formal standby facilities and credit lines with original maturity of up to 1 year

(j) Others

Total Risk-Weighted Off-Balance Sheet Accounts

SCHEDULE 1C

TOTAL QUALIFYING CAPITAL

INSTITUTION ID:

FINANCIAL YEAR:

START DATE:

END DATE:

| CATEGORY | | CAPITAL ACCOUNTS | AMOUNT (M000) |
|---|---|---|---|
| Tier I | 1. | Paid-up ordinary share capital/ assigned capital | |
| | 2. | Paid-up ordinary share premium | |
| | 3. | Undisclosed or hidden reserves | |
| | 4. | Paid-up perpetual non-cumulative preference shares | |
| | 5. | Paid-up perpetual non-cumulative preference share premium | |
| | 6. | Statutory Reserve | |
| | 7. | Capital reserves - excluding assets revaluation | |
| | 8. | General reserves - excluding reserves for losses on assets | |
| | 9. | Retained earnings - audited | |
| | Tier I capital before deductions | | |
| | Less deductions: Total | | |

| | | | |
|---|---|---|---|
| | | (a) | Goodwill |
| | | (b) | Current year's losses |
| | Tier I capital after deductions | | |
| Tier II | 1. | Fixed Assets revaluation reserves | |
| | 2. | Securities revaluation reserves (discounted) | |
| | 3. | Undisclosed or hidden reserves | |
| | 4. | General provisions/reserves for losses on assets (up to 1.25% of weighted-risk assets) | |
| | 5. | Paid-up, perpetual, cumulative preference shares | |
| | 6. | Long-term preference shares | |
| | 7. | Perpetual debt instruments | |
| | 8. | Mandatory convertible debt instruments | |
| | 9. | Subordinated term debt and limited life preference shares (limited to 50% of Tier I capital) | |
| | Tier II capital | | |
| Tier I & Tier II | Total capital (Tier I & II) | | |
| | Less deductions: (Total) | | |
| | (a) | Investments in unconsolidated financial subsidiaries | |
| | (b) | Intangible assets | |
| | (c) | Deficiencies in provisions for losses | |

(d) Others (as may be determined by the Central Bank)

TOTAL QUALIFYING CAPITAL

| Derivatives | Net AMT | Market price | MRK Value | Risk weight | RWV | Counterparty CR | RWV |
|---|---|---|---|---|---|---|---|
| Int Rate swap | | | | | | | |
| 2a one year or less | | | | 0 | 0 | | |
| 2b one to five years | | | | 0.5% | 675 | | |
| 2c Five years or more | | | | 1.5% | | | |
| FRA | | | | | | | |
| 7a one year or less | | | | 0 | | | |
| 7b one to five years | | | | 0.5% | | | |
| 7c Five years or more | | | | 1.5% | | | |
| Forward FX Contracts | | | | | | | |
| 12a one year or less | | | | 1% | | | |
| 12b one to five years | | | | 5% | 36250 | | |
| 12c five years or more | | | | 7.50% | | | |

| | | | |
|---|---|---|---|
| | | 0.005 | |
| | | 0.015 | |
| | | 0.05 | |
| Derivatives | Net AMT | risk weighting factor | Capital charge |
| Int Rate Swap | | | |
| Government | | 0 | |
| 2 rating agencies | | 0.0025 | |
| One rating agency | | 0.01 | |
| Supervisory approval | | 0.016 | |
| all others | | 0.08 | |
| FRA | | | |
| Government | | 0 | |
| 2 rating agencies | | 0.0025 | |
| One rating agency | | 0.01 | |
| Supervisory approval | | 0.016 | |
| all others | | 0.08 | |
| Forward FX Contracts | | 0.08 | |

SCHEDULE 2

CAPITAL CHARGES
**(regulation 8(1)(b))**

| **Market Risk Component** | **Capital Charge (percent)** | **Additional Capital Charge** |
|---|---|---|
| Foreign exchange (includes positions in gold), | The higher of total long positions net of short positions plus the position in gold multiplied by 8.0 percent | |
| Commodities | Net position, long or short, of each commodity at the spot rate multiplied by 15.0 percent | 3.0 percent of the bank's gross positions, long plus short, in each commodity, to reflect the volatility of the commodities market in general |
| Equities | The sum of all long and short positions multiplied by 8.0 percent plus the overall net position in equities multiplied by 8.0 percent | |
| Interest Rate Risk | Specific risk of each category of security -<br><br>(i) for government securities multiply by zero percent;<br>(ii) for investment grade securities (rated by two rating agencies) | |

| | | |
|---|---|---|
| | | multiply by 0.25percent; |
| | (iii) | for investment grade (rated by one rating agency) multiply by 1.0percent; |
| | (iv) | for those securities gaining supervisory approval multiply by 1.6percent; and |
| | (v) | for all other, by 8.0 percent. |
| Total market risk | The sum of all charges of the 4 components of market risk multiplied by the inverse of the minimum capital adequacy ratio (8 percent) to translate to a risk-weighted asset equivalent amount. | |

LEGAL NOTICE NO. 50 OF 2016

**Financial Institutions (Banks) (Branching Requirements) Regulations, 2016**

Pursuant to section 18 and 71(1) of the Financial Institutions Act 2012[1], I

**DR. RETŠELISITSOE MATLANYANE**

Governor of the Central Bank, being the Commissioner of Financial Institutions make the following regulations -

**Citation and commencement**

1. These regulations may be cited as the Financial Institutions (Branching Requirements) Regulations, 2016 and shall come into operation on the date of publication in the Gazette.

**Interpretation**

2. (1) In these regulations, unless the context otherwise requires –

"CAMELS" means capital, asset quality, management, earnings, liquidity and sensitivity to market risk;

"the Act" means the Financial Institutions Act, 2012.

(2) Words used have the same meanings assigned to them under the Act.

**Application**

3. These regulations shall apply to a bank issued a licence under the Act.

**Regulatory requirements**

4. (1) The Commissioner shall not process an application to open a branch or agency if any of the following conditions exits -

(a) the applicant has incurred a net loss in the immediate preceding year;

(b) there is any impairment in the paid-up capital or reserve account;

(c) the applicant has failed to comply with the risk-based capital requirement, minimum liquid assets ratio or the reserve requirement for 4 times during the previous 12 months;

(d) the applicant banks with a CAMELS rating of 4 or 5 on their previous examination or a composite risk assessment of High and either Stable or Increasing;

(e) if the bank's investment in fixed assets relative to capital after the opening of the new branch shall not exceed 25 percent.

(2) An applicant which does not have any of the disqualifications listed in regulation 4 shall be evaluated on the following criteria -

(a) satisfactory performance of the applicant -

(i) regarding compliance with pertinent laws and prudential regulations and recommendations or directive arising from examinations conducted;

(ii) regarding financial strength based on the latest audited and other financial reports for the past 12 months;

(iii) regarding managerial capabilities as reflected in a strong internal control system, business plans and strategies;

(iv) regarding submission of timely and accurate reports to the Commissioner; and

(v) with a CAMELS rating of 1 or 2 on their previous examination or a composite risk assessment of moderate or low;

(b) economic justification for the branch -

(i) types of services to be offered in the proposed branch or agency and existing services by financial institutions in the area to be served;

(ii) description of the area to be served in terms of economic growth and potential; and

(iii) write-up on how the proposed branch or agency will contribute to the effective mobilization of savings and development of banking or financial business in the area to be served;

(c) adequate head or main office support showing -

(i) operational and staff set-up of the proposed branch or agency;

(ii) internal control system for the branch or agency;

(iii) investments in premises, office equipment and computers;

(iv) adequate head or main office support and oversight relative to the management of risks existing in branch operation; and

(v) adequate internal audit programme for branch operations to ensure that the bank's policies, processes and limits are adhered to in practice.

(3) For banks with a CAMELS rating of 3 or risk assessment of high and decreasing, an application may be considered in the event there is evidence provided by the bank reflecting remedial actions taken and progress made in resolving supervisory issues.

**Branching procedures**

5. (1) A bank which proposes to establish a branch or agency shall apply, in writing, to the Commissioner and the application shall include the documentary requirements as set out in the Schedule.

(2) Despite the provisions of subregulation (1), the Commissioner may require additional information or documents to evaluate the application.

(3) Where there are 2 or more applications received for same service area, priority in processing of application shall be based on the time of the receipt of completed application.

(4) The Commissioner shall respond with a decision on the application within a period of 30 days from receipt of the completed application together with all supporting documents.

(5) After determining whether the applicant satisfies the branch criteria, the Commissioner may issue its written approval and the applicant shall pat to the Commissioner the prescribed license fee under section 13 of the Act.

(6) If the Commissioner concluded that there exists a condition which prohibits evaluation of the application or that the applicant does not satisfy the requirements for branching, the Commissioner shall inform the applicant in writing of its refusal to grant permission.

(7) Advertisements or announcements of plans or intentions to open a branch shall state clearly that the application shall be subject to prior approval by the Commissioner.

(8) The proposed branch or agency shall commence operation within 6 months following notice of approval by the Commissioner.

(9) The approval granted to a bank for the establishment of the branch or agency shall be revoked if it fails to commence within the prescribed period.

**Automated teller machines**

6. (1) The installation of automated teller machines shall be subject to

prior notice of the Commissioner of the location and security systems in place.

(2) Only banks licensed in Lesotho shall be allowed to install automated teller machines.

**Relocation of offices**

7. (1) Transfer or relocation of head or main office or branch or agency may be allowed only subject to prior written consent of the Commissioner.

(2) The request for approval to transfer or relocate offices of a bank shall be accompanied by -

(a) justification for the relocation;

(b) a copy of the approval by the board of the bank autho rising the relocation;

(c) proposed arrangements with the depositors and other clients who may be adversely affected by the transfer;

(d) draft notice of relocation to depositors, creditors and other clients giving a minimum of 30 days' notice of a relocation of the branch. Such notice shall contain -

(i) the new address of the branch, and

(ii) for closure the notice shall contain the address of the nearest branch of the bank.

(e) draft public notice in a newspaper with general circulation in the community in which a new branch will be established so that the public may comment.

(f) the notice which shall be published in 3 consecutive issues of the newspaper shall state the name and address of the bank;

(g) the proposed location of the branch; and

(h) the address to send comments to the Commissioner as part of its deliberations relative to serving the needs of the community.

**Closure of branches and agencies**

8. (1) A branch or agency shall not be closed without the prior written consent of the Commissioner.

(2) The request for approval to close the branch or agency shall be accompanied by -

(a) justification for the closure;

(b) a copy of the approval by the board of the bank authorising the closure;

(c) proposed arrangements to pay-off depositors and other creditors or to transfer the business of existing clients; and

(d) draft notice of closure to depositors, creditors, other clients and announcement to the public giving a minimum of 30 days prior notice of the proposed closure.

**Supervisory actions and remedial measures**

9. Where a bank fails to comply with these regulations, the Commissioner may pursue any remedial measures at its disposal or require the bank to take any or all of the following measures -

(a) close the branch, agency or other place of business which was established without the prior approval by the Commissioner;

(b) re-open the branch, agency or other place of business which was closed without the prior approval by the Commissioner; and

(c) pay a fine which may be imposed by the Commissioner in accordance with the Act.

**DATED:**

**DR. RETŠELISITSOE MATLANYANE**
**GOVERNOR OF THE CENTRAL BANK OF LESOTHO**

## SCHEDULE

## DOCUMENTARY REQUIREMENT FOR BRANCHING
**(regulation 5(1))**

1. Proposed site or address (indicate if owned or leased).

2. Proposed areas to be served.

3. Approximate date of opening.

4. Type of services to be offered.

5. Statistical data -

   (a) approximate population of areas to be served;

   (b) existing financial institutions in the area to be served; and

   (c) principal economic activities and major business establishments.

6. Write-up on economic justification, including growth potential for the areas to be served, for the establishment of the proposed branch or agency.

7. Copy of board approval for the establishment of the branch or agency.

8. Operational and staffing set-up with names of branch or agency officers and the completed Personal Declaration Sheets for at least the branch manager and the assistant manager.

9. Internal control system within the branch or agency and reporting system to the head or main office.

10. Facilities to be put in place including estimated cost of major capital expenditure for premises, equipment, and security devices.

11. Indicate whether new branch or relocation.

LEGAL NOTICE NO. 51 OF 2016

**Financial Institutions (Foreign Currency Exposure Limits) Regulations, 2016**

Pursuant to section 71(2) of the Financial Institutions Act 2012[1], I,

**DR. RETŠELISITSOE MATLANYANE**

Governor of the Central Bank, being the Commissioner of the Financial Institutions, make the following Regulations -

**Citation and commencement**

1. These regulations may be cited as the Financial Institutions (Foreign Currency Exposure Limits) Regulations, 2016 and shall come into operation on the date of publication in the Gazette.

**Interpretation**

2. In these regulations unless, the context otherwise requires -

"correspondent bank" means a foreign bank that holds deposits or performs correspondent banking or financial services for and on behalf of a bank licensed in Lesotho;

"currency futures and swap" means all amounts of money to be received less all amounts to be paid in the future as a result of transactions in currency futures;

"foreign currency" means any currency which is not legal tender in Lesotho and includes any bill of exchange, letter of credit, money order, promissory note, traveler's cheque or any other instrument for the payment of currency payable in a currency unit which is not legal tender in Lesotho;

"foreign exchange business" means a facility offered, business undertaken or transactions executed with any person involving a foreign currency inclusive of any account facility, credit extension, lending, issuance of guarantee, counter guarantee, purchase or sale by means of cash, cheque, draft, transfer or any other instrument denominated in foreign currency;

"forward transaction, forward purchase, forward buy or forward sale" means transactions executed after more than two working days from the date the transactions is contracted or agreed;

"foreign currency assets" means all assets denominated in foreign currency converted to the Maloti equivalent;

"foreign currency deposits" means deposits liabilities denominated in foreign currency;

"inter-bank foreign exchange market" means the market in which spot, forward, futures or other foreign exchange trading mechanisms operate;

"international rating agencies" means internationally recognized rating firms;

"intraday" means at any time during the day;

"long position or long open position or overbought position of a bank in foreign currency" means a holding of foreign currency by the bank for its own account in excess of all its contractual spot, same day value and forward transactions commitments in a foreign currency;

"mid-rate" means the mid-point of the buying and selling of exchange rates in foreign currency prevailing as at the close of business;

"net open position of a bank in foreign currency" means the sum of all assets in a given foreign currency net of the sum of all liabilities in that foreign currency;

"off balance sheet items" includes all items not shown on the balance sheet but which constitutes credit risk and such other risks as in guarantees, acceptances, performance bonds, letters of credit and other off-balance sheet items deemed to constitute risk as such by the Commissioner;

"overall foreign exchange exposure" means the sum of all individual net long positions and all individual net short positions for individual foreign currencies, Maloti equivalent, relative to total qualifying capital;

"same day transaction", "same day purchase", "same day sale" means a transaction having a same day value;

"same day value" means a transaction to which it is referred is to be executed on the very day it is contracted or agreed;

"short position, short open position or oversold position of a bank in a foreign currency" means that the holding by the bank of that foreign currency for its own account is less than all its contractual spot, same day value and forward transaction commitments in that foreign currency;

"significantly under-capitalized" means a bank which does not hold minimum capital funds unimpaired by losses, core capital or total capital of at least fifty percent of the requirement under section 23 of the Act;

"single foreign currency exposure" means the Maloti equivalent at spot-midrate, the means between prevailing buying and selling rates, of assets and liabilities, on and off balance sheet, denominated in foreign currency;

"spot transactions", "spot purchase", "spot buy" or "spot sale" means a transaction having a spot value;

"spot value" means the transaction to which it is referred is to be executed within two working days from the date it is contracted or agreed;

"value date of a transaction" means the date on which it is to be executed;

"shorthand method" means the calculation of the overall foreign exchange risk exposure by determining the greater of the sum of all net long positions or the sum of all net short positions in each currency, coverted to Maloti at the prevailing spot mid-rate;

"the Act" means the Financial Institutions Act of 2012;

"total qualifying capital" refers to latest capital position computed according to Financial Institutions, risk-based capital requirements, Regulations 2012.

**Objectives**

3. These regulations are meant to -

(a) set the minimum prudential limits in foreign exchange risk in order to minimise foreign exchange risk by preventing the banks to take excessive foreign currency positions that may expose the bank to unwarranted risks and potential losses;

(b) to ensure that banks have put in place adequate foreign exchange risk management systems in line with international standards and best practices, appropriate operational guidelines and internal controls intended to identify, measure, monitor and control foreign exchange risks.

**Application**

4. These Regulations shall apply to a bank issued a license under the Act.

**Risk management**

5. A bank shall adopt sound and prudent foreign exchange risk management policies, practices and systems in accordance with all relevant laws on risk management.

**Calculation of exposure limits**

6. A bank shall -

(a) maintain, as at the close of any business day, its foreign exchange exposures, irrespective of short or long positions, at not more than -

(i) 15percent of the total qualifying capital for any single foreign currency exposure; and

(ii) 25 percent of the total qualifying capital for overall foreign exchange exposure;

(b) monitor and maintain, within prudent limits established by the board of directors, its intra-day foreign exchange exposures both in single currency and the overall position;

(c) calculate its single and overall foreign currency exposure on a daily basis.

**Calculation of overall foreign exchange risk exposure**

7. (1) Calculation of overall foreign exchange risk exposure shall be by measurement of risks inherent in a banking institution's mix of long and short positions in different currencies.

(2) A bank shall calculate the overall foreign exchange risk exposure or overall open position as follows -

(a) calculate the net open position in each currency as set out in regulation 6;

(c) find the sum of all net short positions;

(c) find the sum of all net long positions;

(d) overall foreign exchange risk exposure or overall open position is the higher of (b) and (c).

**Reports**

8. (1) A bank shall compile its data for the return on a daily basis and submit weekly to the Commissioner, unless otherwise required.

(2) A report on foreign currency exposure as set out in the Schedule for every business day of the reporting week shall be submitted to the Commissioner not later than Tuesday of the following week.

**Foreign exchange lending**

9. A bank lending in foreign currency shall ensure that -

(a) borrowers have foreign currency income or have taken other measures to mitigate foreign exchange risk; or

(b) foreign exchange credit facilities are granted to borrowers operating and investing in Lesotho.

**Solo and consolidated application**

10. Where a bank directly or indirectly controls another bank, the foreign exchange exposure limits shall be met by each bank or financial institution on a solo basis, and the parent bank shall comply with the foreign exchange requirements on a solo and consolidated basis.

**Limits on placements**

11. (1) A bank shall be authorized at any time to place or deposit a maximum of 25 percent of its core capital with a foreign counterparty or any other correspondent institution which has a minimum long term credit rating of A or above.

(2) A bank shall place or deposit a maximum of 40 percent of its total foreign exchange placements with a related or correspondent institution that has minimum long term international rating of B or above.

(3) A bank shall be allowed to place a maximum of 20 percent of its total foreign exchange placements in a non-rated foreign related or correspondent organization.

(4) The aggregate foreign exchange placement in a country other than a member of the Organization for Economic Cooperation and Development shall be restricted to a maximum of 20 percent of the bank's total foreign exchange placements.

**Approval of correspondents**

12. (1) In establishing correspondent relationships with any bank

abroad, a bank shall comply with the limits under regulation 11.

(2) Notwithstanding provisions of subregulation (1), a bank shall notify the Commissioner not later than 7 days after establishment of such relationship and submit terms and conditions upon which such correspondent relationship has been established

**Supervisory action**

13. If a bank fails to comply with the foreign exchange exposure limits on any day, it shall, within the next working day, report in writing to the Commissioner such failure giving the reason for the excess and stating how the excess shall be corrected.

**Penalties**

14. (1) Without prejudice to the other penalties and actions prescribed by law or in these regulations, the Commissioner may impose on any bank, any of the following sanctions for non-compliance with the foreign exchange exposure limits specified under these Regulations -

(a) administrative fines and penalties determined by the Commissioner pursuant to section 32 of the Act, on the bank or any of its directors, officers, or employees involved in or responsible for the non-compliance;

(b) prohibit the undertaking of any further foreign exchange activities;

(c) require the infusion of additional capital to absorb probable foreign exchange losses;

(d) restrict declaration or payment of dividends or remittance of profits;

(e) prohibit payment of bonuses, salary incentives, management fees or other discretionary compensation to directors or officers;

(f) suspend the acceptance of new deposits;

(g) suspend lending and investment operations, or the issuance of letters of credit or guarantees;

(h) suspend capital expenditures;

(i) suspend access to the credit facilities of the Commissioner;

(j) prohibit the bank from participating in the Inter-bank foreign exchange market;

(k) revoke the bank's banking license;

(i) suspend the defaulting director, officer of employee or disqualify them from holding any position or office in any bank.

**Transitional provisions**

15. A bank which fails to comply with the foreign currency exposure limits on the commencement date of these Regulations shall, within 60 days from such date, submit for approval by the Commissioner, a detailed plan describing the means and specifying the time-frame by which the bank shall meet the requirement and thereafter comply with it.

**DATED:**

**DR. RETŠELISITSOE MATLANYANE**
**GOVERNOR OF THE CENTRAL BANK OF LESOTHO**

**NOTE**

1. Act No. 21 of 2012

SCHEDULE

FOREIGN CURRENCY EXPOSURE REPORT
**(Regulation 8(2))**

**FOREIGN CURRENCY EXPOSURE**
**( Amounts in thousands)**

**INSTITUTION ID**

**FINANCIAL YEAR**

**START DATE**

**END DATE**

| | **SINGLE CURRENCY EXPOSURE** | | | | | | | | | **OVERALL** |
|---|---|---|---|---|---|---|---|---|---|---|
| | US | UK | EURO | CHF | BWP | CAD | DKK | SEK | AUD | **EXPOSURE** |
| **I. Foreign Exchange Assets (+)** | | | | | | | | | | |
| a) Currency On Hand | | | | | | | | | | |
| b) Due from banks abroad (Nostro) | | | | | | | | | | |
| c) Cheques and items in-transit | | | | | | | | | | |
| d) Loans and advances | | | | | | | | | | |
| e) Accrued interest receivables | | | | | | | | | | |

f) Other assets

**II. Foreign Exchange Liabilities (-)**

a) Due to banks abroad (Vostro)

b) Foreign currency deposits

c) Loans payable

d) Accrued interest payable

e) Other accruals

**III. Off-Balance Sheet**

a) Undelivered spot purchase (+) sales (-)

b) Forward purchase (+)/sales (-)

c) Currency Futures and Swaps

d) Guarantees and commitment

e) Other off

balance sheet items

| | | |
|---|---|---|
| IV. | **a) Net Long (+) Short (-) Position -** | |
| | **b) Exchange Rate In Maloti (+) (Mid rate)** | |
| | **c) Net Position In Local Currency** | |
| | **d) Percent of total qualifying Capital** | |
| | **e) Overall Exposure** | Please Provide Total Qualifying Capital at B47 |
| V. | **a) Total Long Position (+)** | |
| | **b) Maloti Equiv of long position** | |
| | **c) Total Short Position (-)** | |
| | **d) Maloti Equiv of short position** | |
| | **e) Overall Exposure (higher of a & b) (in Maloti)** | |

**f) percent of Capital**

**Total Qualifying Capital**

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