

**STATUTORY INSTRUMENTS SUPPLEMENT**

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**S T A T U T O R Y I N S T R U M E N T S**

**2010 No. 44.**

**THE FINANCIAL INSTITUTIONS (CONSOLIDATED SUPERVISION)  
REGULATIONS, 2010.**

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*Regulation*

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Annual information requirements for financial institution's affiliates, associates, holding or subsidiary companies or controlling persons

# S T A T U T O R Y I N S T R U M E N T S

## 2010 No. 44.

### **The Financial Institutions (Consolidated Supervision) Regulations, 2010** *(Under section 131 of the Financial Institutions Act, 2004, Act No.2 of 2004)*

IN EXERCISE of the powers conferred upon the Central Bank by section 131 of the Financial Institutions Act, 2004, and in consultation with the Minister responsible for finance, these Regulations are made this 16th day of September, 2010.

#### PART I—PRELIMINARY

##### **1. Title**

These Regulations may be cited as the Financial Institutions (Consolidated Supervision) Regulations, 2010.

##### **2. Interpretation**

In these Regulations, unless the context otherwise requires—

“Act” means the Financial Institutions Act, 2004;

“affiliate” in respect of a financial institution means any entity, corporate or unincorporated where five per cent or more of any class of its voting shares or other voting participation is directly or indirectly owned or controlled by that financial institution or is held by it with power to vote;

“associate” means—

(a) in relation to a natural person—

- (i) where the relationship is through marriage and includes wife, husband, mother or father in law, sister or brother of the wife or husband;
- (ii) where the relationship is through consanguinity, includes father, mother, sister, brother, son, daughter, niece, nephew, grandson or granddaughter, maternal or paternal uncle or aunt or

- cousin;
  - (iii) any company of which that person is a director; or
  - (iv) any person who is an employee or partner of that person;
- (b) in relation to a company, any company which enjoys common shareholding or common shareholders with another company directly or indirectly; and
- (c) in relation to trusts, the trustees of any settlement in which that person is a beneficiary;

“conglomerate group” means a group of two or more companies with significant financial and non-financial businesses including one or more financial institutions;

“consolidated supervision” means an overall evaluation both qualitative and quantitative of a financial institution and the group to which it belongs to ensure that all risk exposures of the financial institution and its subsidiaries, or a financial institution belonging to a financial or conglomerate group, are taken into account, whether the risks arise in the financial institution itself, or in a parent, subsidiary, affiliate or associate;

“control” means the relationship between the parent undertaking and a subsidiary undertaking or similar relations between an individual and an undertaking or the power to determine the financial and operational policy of a financial institution under its charter or to an agreement, or direct or indirect influence by a person over decision-making and the management of a financial institution;

“financial group” means a group of two or more companies that engage predominantly in financial institution business and securities business;

“holding company” means a company, the subsidiary undertakings of which are either exclusively or mainly other companies or financial institutions, where at least one of the subsidiaries is

a financial institution;  
“parent undertaking” means an undertaking which effectively exercises a dominant influence over another undertaking.

“subsidiary company” means—

- (a) a company whose holding company is a member of the subsidiary company and controls the composition of its board of directors;
- (b) a company whose holding company holds more than half in nominal value of the equity share capital of the subsidiary company;
- (c) an undertaking over which a parent undertaking effectively exercises a dominant influence; or
- (d) a company which is a subsidiary of a subsidiary company.

### **3. Purpose of Regulations**

The purpose of these Regulations is—

- (a) to enable the Central Bank to evaluate the entire group to which a financial institution belongs, taking into account all the risks which may affect the institution, regardless of whether the risks arise in the financial institution or parent undertaking, subsidiary company, affiliates, associates or other undertakings in which it has a relationship;
- (b) to establish reporting requirements for financial institutions and their subsidiaries and entities within financial groups and conglomerate groups in order to provide the Central Bank with a full understanding of the structure of the banking or financial group, as well as the business conducted by each entity in the group and the risk environment in which they operate;
- (c) to prevent abuses by financial institutions using group structures

- to evade prudential limits or make multiple uses of capital;
- (d) to enable the Central Bank to supervise risks that arise outside the financial institution itself such as financial risk on intra-group lending and reputational risk due to losses or other problems elsewhere in the group;
  - (e) to enable the Central Bank to supervise financial institutions that conduct part of their business through subsidiaries and affiliates that are not supervised or regulated by the Central Bank yet their activities have the potential to affect the soundness of the financial institution thus, the risk profiles of such entities have to be considered in evaluating the financial condition of the financial institution; and
  - (f) to prevent the practice of double gearing or multiple uses of capital and capital leveraging which occurs when a holding company or parent company raises funds in the form of debt and down streams the funds to a subsidiary in the form of equity, or companies within the group have cross-shareholdings.

#### **4. Application**

These regulations apply to all financial institutions licensed to carry on financial institution business in Uganda.

### **PART II—REGULATORY REQUIREMENTS**

#### **5. Information requirements**

(1) A financial institution shall provide the information set out in Schedule to these Regulations by the 31st of December of each year for all their affiliates, holding or subsidiary companies or controlling persons and not later than 31st January of the following year.

(2) The Central Bank shall, if it deems necessary, require a financial institution to provide the information set out in the Schedule to these Regulations by 31st December of each year for the financial institution's

associates and not later than 31st January of the following financial year.

(3) The Central Bank shall, if it deems necessary require a copy of the latest annual audited financial statements of the affiliates, associates, holding or subsidiary companies or persons exercising control over the financial institution, to be submitted to the Central Bank not later than 30th June of the year following the financial year in which the audited financial statements relate.

(4) The Central Bank shall, if it deems necessary, require in writing any or all of a financial institution's affiliates, associates, holding or subsidiary companies, or controlling persons to submit an information sheet (in case of companies) and a personal declaration form (in case of natural persons) as set out in Schedules II and III, respectively, of the Financial Institutions (Licensing) Regulations, 2005.

## **6. Consolidated financial statements**

(1) A financial institution that has a subsidiary shall submit a copy of the audited consolidated financial statements within three months from the end of the financial year.

(2) A financial institution that has subsidiaries shall in addition to its own reports submit on a consolidated basis submit to the Central Bank the following reports—

- (a) quarterly computation of capital adequacy as set out in Schedule I of the Financial Institutions (Capital Adequacy Requirements) Regulations, 2005;
- (b) quarterly report on credit concentration and large exposures as set out in Schedule I of the Financial Institutions (Limits on Credit Concentration and Large Exposures) Regulations, 2005; and
- (c) quarterly report on credit facilities extended to insiders as set out in Schedule I of the Financial Institutions (Insider Lending Limits) Regulations, 2005.

(3) The Central Bank may require a sub-consolidation of the licensed financial institution and such subsidiaries, associates and

affiliates within or outside Uganda as the Central Bank may specify.

## **7. Scope of consolidated supervision**

(1) In addition to the annual reporting requirements specified in regulations 5 and 6 of these Regulations, the Central Bank shall determine any additional information that may be required from a financial institution and any of its affiliates, associates, holding or subsidiary companies or any person exercising control over the financial institution in order to satisfy itself that the operations and affairs of such companies or persons are not detrimental to the safety and soundness of the financial institution concerned.

(2) Notwithstanding regulations 5, 6, 7(1) and 8 of these Regulations, the focus of the Central Bank's supervision shall remain the financial institution itself and there is no intention to supervise all companies or controlling persons in a group to which the financial institution belongs.

## **8. Prudential limits**

(1) A financial institution with subsidiaries shall—

- (a) comply with the minimum capital adequacy requirements established by the Financial Institutions (Capital Adequacy Requirements) Regulations, 2005, on a consolidated basis in addition to complying on a solo basis;
- (b) comply with limits on credit concentration established by the Financial Institutions (Limits on Credit Concentration and Large Exposures) Regulations, 2005, on a consolidated basis in addition to complying on a solo basis; and
- (c) comply with the limits on Financial Institutions (Insider-Lending Limits) Regulations, 2005, on a consolidated basis in addition to complying on a solo basis.

(2) Where a financial institution with subsidiaries is not in compliance with the consolidated prudential limits specified in this regulation, the Central Bank shall pursuant to section 27 (2) of the Act and in recognition of the risks, prescribe such higher capital adequacy requirements for that institution as may be required to ensure

compliance with the prudential limits on a consolidated basis.

## **9. Conduct of examinations**

(1) The Central Bank may appoint, under section 81(2) of the Act, a competent person to carry out an examination of the operations and affairs of an affiliate, associate, holding or subsidiary company of a financial institution or of any person who exercises control over the financial institution in order to satisfy itself that the operations and affairs of the affiliate, associate or holding or subsidiary company are not detrimental to the safety and soundness of the financial institution concerned.

(2) Where applicable, the examination to be conducted under subregulation(1) may be done in co-ordination with the relevant authority or body which exercises supervision or regulation over such affiliates, associates, holding or subsidiary companies or controlling persons.

(3) The competent person referred to in subregulation (1) shall refer to an officer of the Central Bank or any other person appointed by the Central Bank.

(4) The competent person shall after the examination prepare and submit to the Central Bank a report which shall draw attention to any unsafe and unsound practices that are detrimental to the financial institution or to its depositors and any breach or contravention of the Act, Regulations issued under the Act, notices or other directives issued by the Central Bank.

## **10. Group reconstruction**

In accordance with section 113 of the Act, no reconstruction of companies within a group of which a financial institution or a subsidiary of a financial institution is a member shall be effected without the prior written approval of the Central Bank.

### **PART III—OFFENCES, PENALTIES AND ADMINISTRATIVE SANCTIONS**

## **11. Offences and penalties**

(1) Any person who fails, refuses, omits or neglects to provide information requested under these Regulations commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty currency points or imprisonment not exceeding two years or both and an additional fine not exceeding fifty currency points for each day on which



the offence continues.

(2) A substantial shareholder or director of a financial institution who—

- (a) being a natural person fails, refuses, omits or neglects to provide information requested under these Regulations or is a party to such failure, refusal, omission or neglect; or
- (b) being a company fails, refuses, omits or neglects to provide information requested under these Regulations or is a party to such failure, refusal, omission or neglect,

shall cease to be a fit and proper person and shall not remain a substantial shareholder or director in a financial institution.

## **12. Administrative sanctions**

In addition to the penalties under regulation 11, the Central Bank may impose any or all of the following administrative sanctions with regard to a financial institution, person, shareholder, director or officer of a financial institution who fails to comply with these Regulations—

- (a) suspension of access to new credit facilities of the Central Bank;
- (b) suspension or restriction of lending and investment operations;
- (c) suspension of opening letters of credit or issuance of guarantees;
- (d) suspension of acceptance of new deposits; or
- (e) suspension or removal from office of the erring, officer or employee of the financial institution.

**SCHEDULE**

***Regulation 5 (1) and (2)***

***ANNUAL INFORMATION REQUIREMENTS FOR FINANCIAL INSTITUTION'S AFFILIATES, ASSOCIATES, HOLDING OR SUBSIDIARY COMPANIES OR CONTROLLING PERSONS***

**Name of Financial Institution .....**

**(Date) As at ....., 2.....**

1. A chart or series of charts which shows the relationship between the financial institution and/or among affiliates, associates, holding or subsidiary companies or controlling persons and the extent of outside shareholders' interests.
2. A chart of the group management structure which clearly indicates the way in which group senior management responsibilities (including the names and job titles) are allocated.
3. A brief outline of the nature of each of the above- mentioned company's or person's business, types of products or range of services being offered and locations of principal places of business.
4. A list of shareholders, directors and officers for each of such company or controlling person.
5. The name and contact details of the authority or body responsible for regulation and supervision of each of such company or controlling person if any.
6. The name and contact details of the external auditors for each of such company or controlling person.

**Note:** Details of the above listed information should be attached and cross-referenced to this page.

Reported by:.....

Signature:.....

Position: .....

### **Cross References**

The Financial Institutions (Licensing) Regulations, 2005, SI No. 41 of 2005

The Financial Institutions (Capital Adequacy Requirements) Regulations, 2005, SI No. 42 of 2005

The Financial Institutions (Limits on Credit Concentration and Large Exposures) Regulations, 2005, SI No 44 of 2005

The Financial Institutions (Insider Lending Limits) Regulations, 2005, SI No. 45 of 2005

EMMANUEL TUMUSIIME-MUTEBILE,  
*Governor, Bank of Uganda.*