

Rwanda

## Regulation governing Financial Holding Companies Regulation 36 of 2021

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# Regulation governing Financial Holding Companies

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## Rwanda

# Regulation governing Financial Holding Companies Regulation 36 of 2021

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**Assented to on 21 January 2021**

**Commenced on 16 February 2021**

*[This is the version of this document from 16 February 2021.]*

Pursuant to Law N° 48/2017 of 23/09/2017 governing the National Bank of Rwanda especially in its articles 5, 6, 8, 9, 10, and 15;

Pursuant to Law N° 47/2017 of 23/9/2017 governing the organization of banking, especially in articles 48, 49, 50, 53, 57, 63 and 117;

Pursuant to the Law N° 52/2008 of 10/09/2008 governing the organization of insurance business;

Pursuant to Law N° 40/2008 of 26/08/2008 establishing the organization of Micro Finance activities;

Pursuant to Law N° 03/2010 of 26/02/2010 concerning Payment System;

The National Bank of Rwanda, hereinafter referred to as «the Central Bank», decrees:

## Chapter One Preliminary provisions

### Article One – Purpose of this regulation

The purpose of this regulation is to establish regulatory requirements for financial holding companies

### Article 2 – Scope of Regulation

This Regulation applies to financial holding companies registered and licensed in the Republic of Rwanda that meets one or all of the following criteria:

- 1° The regulated financial institution holds 30% of the total assets of the financial holding company;
- 2° The regulated financial institution in the financial holding company is designated as a domestically systemic financial institution or is to affect the stability of, or public confidence in, the financial system;
- 3° The financial institution is the provider of a systemically important payment system;

Without prejudice to the provisions of paragraph one (1) of this Article, a financial holding company not registered in the Republic of Rwanda is subject to this regulation, unless it is supervised on global consolidated basis by the home country supervisor or host jurisdiction in which it has substantial operations.

### Article 3 – Definitions

In this regulation, the following terms mean:

- 1° **Financial holding company:** A company registered as one of the categories of companies defined by the law governing companies whose principle object includes the business of a holding company set up for the purpose of making and managing for its own account equity investment in two or more companies, whereby one of which must be a regulated financial institution;

- 2° **Regulated financial institution:** a financial institution licensed and regulated by the Central Bank;
- 3° **Consolidated supervision:** an overall evaluation to ensure that all risk exposures of a financial holding company are taken into account, whether the risks arise in the financial holding company itself, its subsidiary or affiliate;
- 4° **Affiliate:** any entity, incorporated or unincorporated, where five per cent (5%) or more of any class of its voting shares or other voting participation is directly or indirectly owned by the financial holding company;
- 5° **Significant holding:** a shareholding in a company that, directly or indirectly, alone or in conjunction with others, represents at least five percent (5%) of the equity capital or voting rights, or that makes it possible to exercise a significant influence over decisions related to the management of that company;
- 6° **Senior Manager:** the management personnel who are the high-level executives of the financial holding company including:
  - a) the Chief Executive Officer (CEO)/Managing Director (MD);
  - b) senior executives officers reporting to the Board or to Board Committees; and
  - c) senior executives officers reporting to the Chief Executive Officer (CEO)/Managing Director (MD).

## Chapter II

### Licensing of financial holding company

#### Article 4 – Application for license

A financial holding company that meet the requirements provided in Article two (2) of this regulation shall apply to the Central Bank for license.

#### Article 5 – Documents to be submitted to the Central Bank for license

The application for license shall be accompanied by the following documents:

- 1° A certified copy of the certificate of incorporation of the holding company and names of subsidiaries as well as nature of businesses engaged in;
- 2° a certified copy of the Memorandum and Articles of Association of holding company;
- 3° information on shareholders, direct and indirect beneficial owners of the holding company;
- 4° detailed business plan or feasibility report which shall, include at a minimum:
  - a. objectives of the financial holding company and those of the subsidiaries it intends to establish or acquire;
  - b. ownership structure in a tabular form indicating the name of proposed investor(s), profession or business and their percentage shareholdings;
  - c. indication of sources of funding of the proposed equity contribution for each shareholder;
  - d. filled personal declaration from each of the significant shareholder, director and senior manager;
  - e. corporate Governance Charter of the financial holding company stating the roles and responsibilities of the board, its committees and the senior management;
  - f. schedule of services to be rendered by the financial holding company;
  - g. five-year financial projection report on the operations of the financial holding company indicating expected growth and profitability;

- h. the details of the assumptions which form the basis of the financial projection;
  - i. details of Information Technology (IT) facilities proposed to be deployed; and
  - j. corporate group structure indicating percentage holding of the financial holding company in each of the subsidiaries as well as their principal businesses and registered Head offices.
- 5° a written and duly executed undertaking by the promoters that the financial holding company will be and remain adequately capitalized for the volume and character of its business at all times, and that the financial holding company shall always submit itself to the supervisory powers of the Central Bank;
- 6° for regulated foreign institutional investors, a non objection letter from the regulatory body of the home country;
- 7° technical Services Agreement where applicable;
- 8° intergroup transaction policies;
- 9° proof of payment of a non-refundable application fee of Two million Rwandan Francs (Frw 2,000,000) to the Central Bank;
- 10° any other information that the Central Bank considers necessary for proper functioning of the financial holding company.

### **Article 6 – Notification to the applicant**

Upon receipt of an application letter together with the requisite supporting documents as provided under Article 5 of this regulation, the Central Bank shall, within ten (10) working days, send to the applicant a letter of information specifying that the file submitted for license is complete or not.

If the documents submitted for license are found to be complete, the assessment or evaluation of the file will commence. Where the documents submitted are not complete, the letter of information shall outline deficiencies in the application, provides a deadline for rectification of the deficiencies. No further action shall be taken by the Central Bank unless the deficiencies are rectified within the prescribed period.

### **Article 7 – Assessment of the application**

While assessing the application for license of financial holding company, the Central Bank shall consider if:

- 1° the transaction would result in a monopoly or would further any combination to monopolize, or to attempt to monopolize, the financial services in Rwanda;
- 2° the effect of the transaction may be substantially to reduce competition in the country, tend to create a monopoly, or in any other manner be in restraint of trade, unless it finds that are clearly outweighed by its probable effect in meeting the needs of the public;
- 3° financial condition of the applicant is sufficient to support its subsidiaries;
- 4° beneficial owners, directors and senior managers of a financial holding company are fit and proper;
- 5° the source of funds is not derived from criminal activities.

### **Article 8 – Notification of the decision of the Central Bank**

If the Central Bank is satisfied that the applicant financial holding company deserves the license, it will notify it within a period of thirty (30) days from the date of receipt of a complete application.

Where the Central Bank decides to grant a licence, it shall, in the notice communicating the decision to grant a licence, require the applicant to submit, the following:

- 1° complete operating manuals, covering policies and procedures of major operations;

- 2° evidence of payment of capital contribution by each shareholder;
- 3° information regarding risk management policies and procedures;
- 4° evidence of compliance with technical requirements and modern infrastructural facilities such as office equipment, computers, telecommunications, software's to perform financial holding company operations and satisfy Central Bank and other sector regulatory requirements;
- 5° any other information that the Central Bank considers necessary for proper functioning of the financial holding company.

### **Article 9 – Onsite visit of financial holding company premises**

Before issuance of a license, the Central Bank may visit the premises of the financial holding company to satisfy itself of business environment at the place of business.

### **Article 10 – Permissible activities of a financial holding company**

The activities of the financial holding company are the following:

- 1° holding of equities in its subsidiaries;
- 2° raise funds to invest in or provide support to its subsidiaries;
- 3° raising funds to conduct its own limited activities and investing funds on behalf of the group;
- 4° providing advisory, financial, accounting, or information processing services, for the purposes of providing support to the business conducted by any other company within the group;
- 5° any other activity as may be approved by Central Bank.

Any shared services shall be provided on non-preferential basis arm's length to its regulated financial institution. Transactions in respect of such services shall require the consent of the Board of both the regulated financial institution and the financial holding company.

### **Article 11 – Non permissible activities**

No financial holding company, its shareholder, director, or key management personnel shall:

- 1° usurp any of the powers or functions of the Board of Directors, or internal management responsibilities and obligations of any of its regulated financial institution;
- 2° interfere in the day-to-day activities of the regulated financial institution;
- 3° be involved in credit administration, underwriting and approval process of the regulated financial institution;
- 4° require the regulated financial institution including any organ, employee, senior manager, or director thereof to take directives or act on the instructions of the financial holding company in its decision making process, or in relation to the conduct of its business in any way whatsoever;
- 5° enter into any technical or management service contract with any of its regulated financial institution except as stipulated in Article 10 of this regulation;
- 6° purchase/dispose assets from/to a regulated financial institution without the prior written approval of the Central Bank;
- 7° borrow or grant any credit facility against the security of its own shares or those of any of its regulated subsidiaries.



## **Article 12 – Divestment of a regulated financial institution from a financial holding company**

Where in the opinion of the Central Bank, the financial holding company is being run in an unprofessional manner that is detrimental to the interest of depositors, creditors, policyholders and/or other stakeholders of the regulated financial institution, it may divest a regulated financial institution from financial holding company and ring-fence it into a single line financial institution.

## **Article 13 – Revocation of the license**

The Central Bank reserves the right to revoke the license of a financial holding company if it is evident that:

- 1° the holding company persistently fails to comply with the requirements of laws and regulations;
- 2° the holding company ceases to meet the requirements for licensing as a financial holding company;
- 3° the license was granted based on false or inaccurate information;
- 4° the holding company is insolvent or is likely to become insolvent;
- 5° proceedings for bankruptcy, insolvency or an arrangement with creditors are initiated against the holding company.

## **Chapter III Governance**

### **Section One – Corporate Governance**

#### **Article 14 – Board of directors and senior management of a financial holding company**

A director or a senior manager of the financial holding company shall be approved by the Central Bank.

A duly completed personal declaration form attached to this regulation accompanies an application for approval.

#### **Article 15 – Disclosure of interests by directors**

Every Director in a financial holding company who has in any manner, directly or indirectly, an interest in an exposure or in a decision to be endorsed shall disclose it.

#### **Article 16 – Other corporate governance requirements**

For other corporate governance requirements not provided in this regulation, a financial holding company shall comply with relevant corporate governance requirements of a financial institution that holds higher percentage of assets in the financial holding company unless provided in the specific Directive issued by the Central Bank.

### **Section 2 – Changes in shareholdings and control of holding company**

#### **Article 17 – Restriction on acquisition of shareholding**

No person shall become a significant shareholder of a financial holding company without obtaining the prior approval of the Central Bank.

### **Article 18 – Transfer of shares by a holding company**

A financial holding company shall not transfer a significant shareholding of its share capital except with the prior written approval of the Central Bank.

Any transfer of share capital of a holding company below five per cent (5%) shall be notified to the Central Bank at least ten days after the transfer.

### **Article 19 – Objection of the acquisition or transfer of significant shareholding**

The Central Bank may reject the acquisition or transfer of significant shareholding in case:

- 1° it may compromise the quality of financial soundness of a regulated financial institution;
- 2° it may jeopardize the interests of the public;
- 3° it may hinder effective solo or consolidated supervision of a regulated financial institution.

### **Article 20 – Investment in companies**

A financial holding company shall not acquire or hold, directly or indirectly, a significant shareholding in any company without the prior approval of the Central Bank.

Subsidiaries are prohibited from acquiring shares of other subsidiaries of their parent holding company.

### **Article 21 – Investment in immovable properties**

No financial holding company shall acquire or hold interests in or rights over immovable property, wherever they may be situated.

In this Article, “immovable property” shall exclude the following:

- 1° any interest in or right over immovable property or any part thereof used for the purposes of conducting the business of any of the companies within the group or housing or providing amenities for the officers of any of the companies within its group;
- 2° any interest in or right over immovable property held by way of security for the purposes of a transaction entered into in the ordinary course of the business of any of the companies within the group;
- 3° any interest in or right over immovable property held by way of enforcement of such security referred to in point 2° above, provided that it is disposed of within the period prescribed by the Central Bank;
- 4° any interest in or right over immovable property or any part thereof held for the benefit of persons other than any company in the group pursuant to an obligation imposed under any written law, rule of law, contract or order of court; and
- 5° such other interest in or right over immovable property as the Central Bank may prescribe.

## **Chapter IV**

### **Prudential norms of financial holding company**

#### **Article 22 – The minimum capital**

A financial holding company shall have the minimum capital that is equal or above the paid-up capital of the regulated financial institutions under its holding. In this paragraph, the minimum capital includes only the paid up capital, the share premium and the retained earnings.

A financial holding company shall demonstrate its financial soundness to the Central Bank and provide its commitment to recapitalize its regulated financial institutions within the group in the event of a capital call-up by the Central Bank.

Where the financial holding company fails to comply with requirements of the Paragraph One of this Article, the Central Bank may, by notice:

- 1° restrict or suspend the activities of the financial holding company; or
- 2° give such other directions to the financial holding company as it considers appropriate.

### **Article 23 – Capital Adequacy Ratio**

A financial holding company shall ensure that its regulated financial institutions comply with the Capital Adequacy Ratio (CAR) prescribed by their respective sector regulations. The minimum capital requirements shall be complied with on a solo and consolidated basis.

A financial holding company shall put in place monitoring tools to monitor the capital adequacy ratios of its regulated financial institutions.

### **Article 24 – Payment of dividend**

A financial holding company shall not pay dividends on its shares except:

- 1° all its preliminary expenses; organisational expenses; share selling commission; brokerage; losses incurred and other capitalized expenses not represented by tangible assets (excluding goodwill) have been completely deducted;
- 2° adequate provisions have been made to the satisfaction of the Central Bank for actual and contingent losses;
- 3° it complies with the minimum capital requirements as well as the related ratios;
- 4° all its subsidiaries met the capital regulatory requirements.

### **Article 25 – Liquidity requirements**

A financial holding company shall ensure that a regulated financial institution in the group, comply with its solo liquidity requirements as applicable.

A financial holding company shall put in place monitoring tools to monitor the liquidity positions of its regulated financial institutions.

### **Article 26 – Intra-group transactions**

A financial holding company shall not:

- 1° engage in any transaction or maintain any business relationship with any of its subsidiaries; except if such transaction is conducted at arm's length;
- 2° borrow from its regulated subsidiary for the purpose of capitalizing itself or any of its subsidiaries;
- 3° obtain a loan based on the guarantee of its regulated subsidiary.

Extension of credit by a banking subsidiary to its holding company shall be regarded as a return of capital and shall be deducted from the capital of the banking subsidiary when computing the bank's capital adequacy ratio.

Any bank lending to subsidiaries or affiliates within its financial holding company group would attract 100% risk weight (if it is fully secured) otherwise it would be removed from the capital of the bank when computing capital adequacy ratio.

Intra-group transfer of properties, plants and equipment shall be carried out in a transparent manner and at arm's length basis.

### **Article 27 – Other prudential norms**

The Central Bank reserves the right to impose to the financial holding company any other prudential norms related to capital, liquidity and intergroup transactions to ensure its financial soundness and those of its regulated financial institutions.

## **Chapter IV Supervision and audit**

### **Article 28 – Supervision of financial holding company by the Central Bank**

The Central Bank shall carry out an examination of the operations and affairs of a financial holding company, its subsidiaries or affiliates whenever it determines that the examination is appropriate to carry out its responsibilities.

In discharging the above examination, the Central Bank has power to:

- 1° have full access to all records in order to review compliance with internal rules and limits as well as external laws and regulations;
- 2° review the overall activities of a financial holding company, both domestic and cross-border;

In discharging the above responsibilities, the Central Bank may appoint a competent person, to carry out on its behalf an inspection of the operations of financial holding company, its subsidiaries or affiliates.

### **Article 29 – Consolidated Supervision of financial holding companies**

Consolidated supervision of financial holding companies shall be in accordance with the Framework for consolidated supervision of regulated financial institutions, where applicable.

Subject to provisions of this regulation, regulated financial institutions shall comply with the requirement of their respective regulation on consolidated supervision.

Financial holding companies shall be required to render returns to the Central Bank in a format as may be prescribed from time to time.

### **Article 30 – External auditor of a financial holding company**

A financial holding company shall appoint an external auditor accredited by the Central Bank.

In performing his/her responsibilities, the external auditor shall comply not only with international standards on audit, but also with the requirements provided for in the regulation on accreditation requirements and other conditions for external auditors for financial institutions.

### **Article 31 – Publication of annual audited consolidated financial statements**

The financial holding company shall publish the annual audited consolidated financial statements for the period ending 31<sup>st</sup> December within 15 days after its approval by the Board of Directors but not later than three (3) months of the following financial year.

## **Article 32 – Integrated reporting**

A financial holding company shall, on annual basis prepare an integrated report that at least:

- 1° includes the annual financial holding activities as well as those of its subsidiaries, affiliate and associates;
- 2° includes concise communication of the holding's strategy, governance and performance;
- 3° demonstrates the links between its financial performance and its wider social, environmental and economic context;
- 4° shows how the holding creates value over the short, medium and long term;
- 5° the consolidated financial statements;

The integrated annual report shall be published on the financial holding company's website and it shall be submitted to the Central Bank not later than five (5) months of the following year.

## **Chapter V Miscellaneous and final provisions**

### **Article 33 – Administrative sanctions**

The Central Bank may, by a Directive issue administrative sanctions for non-compliance with the requirements of this regulation.

### **Article 34 – Transitional period for the publication of the integrated report**

Existing Financial Holding companies are given a transitional period of one (1) year for compliance with the provisions of this regulation, from the date of the publication in the official *gazette* of the Republic of Rwanda.

### **Article 35 – Drafting and consideration of this Regulation**

This Regulation was initiated, considered and approved in English.

### **Article 36 – Commencement**

This regulation shall come into force on the date of its publication in the Official *Gazette* of the Republic of Rwanda.

## **Appendix**

### **Forms**

*[Editorial note: The forms have not been reproduced.]*