

Rwanda

Regulation on the Application of Proportionality Principle to Banks Regulation 37 of 2021

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Regulation on the Application of Proportionality Principle to Banks

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Regulation 37 of 2021

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

Pursuant to Law N° 47/2017 of 23/9/2017 governing the organization of banking, especially in articles 4, 36, 48 and 63;

The National Bank of Rwanda, hereinafter referred to as “the Central Bank”, decrees:

Chapter One General provisions

Article One – Purpose of this Regulation

This Regulation aims at:

- 1° Adjusting supervisory intensity based on risk profile, complexity and business model of banks;
- 2° Maintaining financial stability by increasing cost efficiency and reducing the complexity of requirements without, at the same time, affecting the effectiveness and soundness of the overall system.

Article 2 – Scope of Regulation

This regulation shall apply to all categories of banks as defined in this regulation.

Article 3 – Definitions

In this regulation, the following terms are defined as follows:

- 1° **Proportionality:** adapting the nature and intensity of supervision to the specificities of the bank, its risk profile, its business model, and its size;
- 2° **Bank:** a public company limited by shares or a cooperative licensed by the Central Bank to undertake activities of accepting deposits and granting loans for its own account. However, development banks are prohibited to collect deposits from the public;

Article 4 – Classification of banks

For the purpose of this regulation, banks are classified in two levels as follows:

1° **Level I:**

include a bank whose total asset is equal and above two hundred billion Rwandan Francs (FRW 200,000,000,000);

2° **Level II:**

include a bank whose total asset is below two hundred billion Rwandan francs (FRW 200,000,000,000) each.

The classification specified in paragraph one of this Article shall be disclosed by the Central Bank and each bank shall be communicated the level in which it fits end of April of every year.

A cooperative bank and a development bank are excluded from Level I and II provided in paragraph One of this Article, but they are subjected to specific requirements defined in this regulation.

Chapter II Proportionality principle in different requirements

Article 5 – Board committees

Without prejudice to the provisions of the regulation on corporate governance for banks, the proportionality principle shall apply in corporate governance of banks.

Banks classified in Level I have Board committees as specified in the regulation on corporate governance for banks.

Mandatory committees for banks classified in Level II are:

1° Risk Committee;

2° Audit Committee;

3° Credit Committee.

Affairs related to nomination and remuneration are discussed in full board, while issues related to information technology are discussed in the Board risk committee.

Article 6 – Composition of the Board committee

Banks classified in level I comply with the requirements related to the board composition as provided for in the regulation on corporate governance for banks.

For banks classified in level II, the board must be comprised of at least five (5) directors, of which at least three (3) of them must be independent directors. Should a bank decide to have more than five (5) directors, the 3/5 ratio of independent directors must be maintained at all times.

Article 7 – Risk management and compliance function

Banks classified in level I shall separate the function of risk management with the function of compliance.

Banks classified in level II may have one function combining both risk management and compliance.

The responsibilities of function merging the risk management and compliance shall be identical as the ones stated in the regulation on corporate governance for banks.

Article 8 – Submission of Internal Capital Adequacy Assessment Process (ICAAP) and Internal Liquidity Adequacy Assessment Process (ILAAP)

Banks classified in level I shall, on annual basis, submit to the Central Bank ICAAP and ILAAP as prescribed in the framework on ICAAP and ILAAP.

Banks classified in level II shall submit a tailored ICAAP and ILAAP.

The Central Bank, by directive, shall determine minimum information to be included in ILAAP and ICAAP for banks classified in level II.

Chapter III

Proportionality principle in cooperative and development banks

Section One – Proportionality principle for cooperative bank

Article 9 – Publication of Financial statement and other disclosures by a cooperative bank

Without prejudice to the provisions of the regulation relating to Publication of Financial statements and other disclosures by banks, it shall be optional for a cooperative bank to publish its financial statements and other disclosures to the public.

A cooperative bank shall ensure that there is effective mode of disclosing information to members and only quantitative information may be disclosed.

The provisions of Paragraph One of this Article do not preclude the obligation of submitting to the Central Bank information to be disclosed to concerned stakeholders.

Article 10 – Limit of exposures to a cooperative bank related parties

The total exposure to a cooperative bank related party shall not, in any case, exceed 5% of the core capital of the cooperative bank.

A cooperative bank is not subjected to aggregate exposures to its related parties or to groups of connected persons to its related parties.

Article 11 – Composition of the Board of Directors in the cooperative bank

The Board of a cooperative bank must be comprised of at least seven (7) directors, of which at least two (2) of them must be independent directors.

Independent directors referred to in Paragraph One of this Article must chair the audit committee and risk committee.

Article 12 – Board committees of a Cooperative Bank

Cooperative Bank must have at least three (3) minimum board committees.

The required minimum committees are the following:

- 1° Risk management committee;
- 2° Audit committee;

3° Credit committee

Affairs related to nomination and remuneration shall be discussed in full board while issues related to information technology shall be discussed in the risk Committee.

Section 2 – Proportionality principle for a development bank

Article 13 – Net open position for a development bank

The overall foreign exchange risk exposure as measured using spot mid-rates and shorthand method shall not exceed +/- 20%/-60% of the bank's core capital. Any excess to the net open position shall be absorbed the following two (2) days.

Unless otherwise provided by the Central Bank, the foreign exchange risk exposure in any single currency, irrespective of short or long position, shall be determined by the development bank provided it remains within the overall exposure limit of +20/-60% of its core capital.

A development bank shall manage foreign exchange and market risk as provided for in the regulation on risk management for banks.

Article 14 – Liquidity requirement

Without prejudice to the regulation on liquidity requirement for banks, the Central Bank shall, by a Directive, may determine liquidity requirements for development banks.

Article 15 – Major investment

A development bank shall not make a major investment in equity shares in other companies without obtaining prior approval of the Central Bank.

The aggregate investment in equity shares of other companies by a bank shall not at any time exceed 60% of bank's core capital.

For the purpose of this Regulation, the equity shares of the company shall include both ordinary shares, and preference shares.

A development bank shall notify the Central Bank any other investment that is not a major investment.

Article 16 – Restructured credit facility

A credit facility other than overdraft may be restructured more than twice over the life of the original facility but shall not exceed four time.

The restructuring stipulated under Paragraph One of this Article shall be allowed if the following conditions are met:

- 1° The maximum number of restructuring applies only to projects that have gone beyond implementation phase and with maturity period above 10 years. Restructuring that may happen on projects under implementation are considered;
- 2° The total number of loan restructuring shall not be exhausted within a period of 5 years during the project lifetime;
- 3° Loan term restructuring must not exceed 5 years from the initially agreed maturity period (cumulatively considering all restructures);
- 4° Loan restructuring appraisal shall be approved by the board;
- 5° The board shall satisfy itself on financial viability of the concerned project during the appraisal;

- 6° The board shall regularly assess the impact of restructured loans on capital and liquidity positions of the bank.

Chapter IV

Miscellaneous and final provisions

Article 17 – Transitional period

Banks are given a transitional period of one year from the date of the publication of this regulation in the *Official Gazette* of the Republic of Rwanda for complying, with the provisions of this Regulation.

Article 18 – Corrective measures

A bank failing to comply with this regulation shall be subject to corrective actions and sanctions as provided by the law governing the organization of banking and regulation on administrative and pecuniary sanctions applicable to banks.

Article 19 – Repealing provision

All prior provisions inconsistent with this regulation are repealed.

Article 20 – Commencement

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