

2005-01-03

TO ALL BANKS, BRANCHES OF FOREIGN BANKS AND MUTUAL BANKS
BANKS ACT CIRCULAR 1/2005
ANNUAL WITHDRAWAL AND RETENTION OF CIRCULARS

1. Executive Summary

In order to –

- (a) ensure that banks, branches of foreign banks and mutual banks are in no doubt as to which administrative directives and guidelines regarding the application and interpretation of the provisions of the Banks Act, 1990 (Act No. 94 of 1990), as contained in circulars issued by this Office, are in force at a particular point in time; and
- (b) avoid an accumulation of ephemeral matter,

all circulars issued by this Office during a calendar year are withdrawn at the beginning of the next year through the medium of Banks Act Circular 1 of such next year: Provided that–

- (i) those of the circulars so withdrawn that should logically remain in force *in toto* will remain effective, with retention of their original numbers and dates; and
- (ii) where, notwithstanding such withdrawal of particular circulars, certain essential directives thereof remain applicable, such directives will be reissued in an abbreviated form in the said Banks Act Circular 1.

2. Reissue of Circulars

The circulars listed below remain effective until further notice. Accordingly, banks, branches of foreign banks, mutual banks and their independent auditors are hereby requested to retain copies of these circulars.

<u>Circular</u>	<u>Brief Details</u>
2.1 Banks Act Circular 11/98	Insurance policies pledged as security for debt.
2.2 Banks Act Circular 2/99	Reporting of capital-adequacy requirements by banks trading in financial instruments.
2.3 Banks Act Circular 13/99	Ethical behaviour in banking.
2.4 Banks Act Circular 5/2000	Position statement on personal account trading.
2.5 Banks Act Circular 7/2000	Electronic submission of amended statutory DI returns to this Office by banks and branches of foreign banks.
2.6 Banks Act Circular 8/2000	Submission of daily trading book activities to this Office by banks trading in financial instruments.
2.7 Banks Act Circular 2/2001	Completion of a compliance checklist.
2.8 Banks Act Circular 8/2001	Use of divisional names.
2.9 Banks Act Circular 13/2001	Electronic submission of amended capital-adequacy ratio requirement DI returns to this Office by banks and branches of foreign banks.
2.10 Banks Act Circular 14/2001	Electronic submission of amended capital-adequacy ratio requirement DI returns to this Office by mutual banks.
2.11 Banks Act Circular 2/2002	Procedure to be followed in respect of applications in terms of the provision of section 37, 52 and/or 54 of the Banks Act.
2.12 Banks Act Circular 6/2002	<p>Requirements for completion of the statement and declaration of the:</p> <ul style="list-style-type: none"> • Form DI 020 of the Regulations relating to Banks and the Regulations relating to Mutual Banks, and • of the form RO 003 and RO 004 of the Regulations relating to Representative Offices of Foreign Banking Institutions.
2.13 Banks Act Circular 8/2002	Applications in terms of the provisions of section 37, 52 and/or 54 of the Banks Act.

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| 2.14 | Banks Act Circular 9/2002 | Accounting treatment of operational cost: cost-to-income ratio. |
| 2.15 | Banks Act Circular 10/2002 | Disclosure of repurchase and resale agreements and similar transactions. |
| 2.16 | Banks Act Circular 11/2002 | Electronic submission of amended DI returns to provide for the regulatory and supervisory treatment of credit risk-mitigation instruments, including credit-derivative instruments, to this Office by banks and branches of foreign banks. |
| 2.17 | Banks Act Circular 13/2002 | Implementation of anti-money-laundering measures. |
| 2.18 | Banks Act Circular 3/2003 | Positions denominated in foreign currency held by banks. |
| 2.19 | Banks Act Circular 4/2003 | Composition of Board-appointed committee to approve large exposures. |
| 2.20 | Banks Act Circular 7/2003 | Amendment to the procedure for the electronic submission of DI returns to this office by controlling companies, banks, mutual banks, branches of foreign banks and offshore branches of South African Banks. |
| 2.21 | Banks Act Circular 8/2003 | Issue of certain capital instruments. |
| 2.22 | Banks Act Circular 11/2003 | Risk weighting of the International Finance Corporation. |
| 2.23 | Banks Act Circular 15/2003 | Amendments to Form DI 425. |
| 2.24 | Banks Act Circular 2/2004 | First Consultative paper on the implementation of the new Basel Capital Accord. |
| 2.25 | Banks Act Circular 3/2004 | Amendments to the requirements for the conducting of the business of a representative office of a foreign banking institution operating in South Africa and of a representative office of a South African bank operating abroad. |
| 2.26 | Banks Act Circular 4/2004 | General guidance notes with regard to anti-money laundering. |
| 2.27 | Banks Act Circular 5/2004 | Trilateral discussions to be held during the 2004 and 2005 calendar years. |
| 2.28 | Banks Act Circular 7/2004 | Preference-share investment schemes. |
| 2.29 | Banks Act Circular 8/2004 | Applications in terms of Section 52(1)(c) of the Banks Act, 1990 (Act No. 94 of 1990). |
| 2.30 | Banks Act Circular 9/2004 | Set-off and netting under Regulation 12 and 23 of the Regulations relating to Banks. |

- 2.31 Banks Act Circular 11/2004 Reserve requirements relating to Banks as Central Securities Depository Participants ("CSDPs") in share transactions totally electronic ("STRATE").
- 2.32 Banks Act Circular 14/2004 Outsourcing of functions within banks.
- 2.33 Banks Act Circular 15/2004 New Capital Accord ("BASEL II") - Gap analysis and readiness assessment.
- 2.34 Banks Act Circular 16/2004 Auditor Rotation.
- 2.35 Banks Act Circular 17/2004 Enforcement of the 31 October 2004 deadline for client identification in terms of the Financial Intelligence Centre Act, 2001 ("FICA").
- 2.36 Banks Act Circular 18/2004 Treatment of regulatory capital – risk margin placed with licensed exchanges.
- 2.37 Banks Act Circular 19/2004 Matters relating to the qualifying capital and reserve funds of banks, including hybrid debt instruments.
- 2.38 Banks Act Circular 20/2004 New Capital Accord ("Basel II") – implementation timelines and related issues.
- 2.39 Banks Act Circular 21/2004 Provisions in terms of regulation 28 of the Regulations relating to Banks and impairments in terms of accounting standard AC 133.

Mutual banks and their independent auditors are furthermore requested to retain copies of Mutual Banks Act Circular 1/96, regarding amendments to the form DI 310 of the Regulations relating to Mutual Banks, and of Mutual Banks Act Circular 1/97, regarding electronic submission of statutory DI returns to this Office by mutual banks.

3. Reissue of Essential Directives

The following essential directives are hereby reissued:

- 3.1 Notwithstanding the withdrawal of:
 - 3.1.1 Banks Act Circular 8/96 (Foreign-exchange settlement risk), the essential directives contained in paragraphs 1, 2 and 3 of the circular are retained.
 - 3.1.2 Banks Act Circular 4/97 (Information submitted on the form DI 900 to be made available on the Internet), the essential directives contained in the said circular are retained.

3.1.3 Banks Act Circular 10/99 (Liquid assets held in compliance with section 72 of the Banks Act, 1990 and section 50 of the Mutual Banks Act, 1993), the essential directives pertaining to liquid assets held in compliance with section 50 of the Mutual Banks Act, 1993, are retained.

4. Acknowledgement of Receipt

Two additional copies of this circular are enclosed for the use of your institution's independent auditors. The attached acknowledgement of receipt, duly completed and signed by both the chief executive officer of the institution and the said auditors, should be returned to this Office at the earliest convenience of the aforementioned signatories.

E M Kruger
Registrar of Banks

The previous circular issued was Banks Act Circular 21/2004 dated 20 December 2004.