



South African Reserve Bank
From the Office of
the Registrar of Banks

Confidential

2007-11-14

**TO ALL BANKS, CONTROLLING COMPANIES, BRANCHES OF FOREIGN BANKS
AND MUTUAL BANKS**

BANKS ACT CIRCULAR 6/2007

**CONSULTATION WITH BANKS, CONTROLLING COMPANIES AND BRANCHES OF
FOREIGN BANKS IN RESPECT OF DIRECTIVES, CIRCULARS AND GUIDANCE
NOTES THAT WILL BE EFFECTIVE AS FROM 1 JANUARY 2008 IN TERMS OF THE
AMENDED BANKS ACT, 1990**

1. Executive Summary

The amended Banks Act, 1990 (Act No. 94 of 1990 – the Act) that will come into effect on 1 January 2008 provides, *inter alia*, for this Office to issue directives, circulars and guidance notes to banks, controlling companies, eligible institutions or auditors of banks or controlling companies. Branches of foreign institutions are included under the definition of banks. The purpose of this circular is to inform banks, controlling companies and branches of foreign banks of this Office's intention to not only retain the applicability of certain current circulars, but also to re-issue such circulars as either directives, circulars or guidance notes as envisaged by the proposed amendments to the Act.

1.1 Directives

Directives may be issued either individually or collectively to the relevant institutions and are issued in respect of the application of the Act whereby such entity/entities are directed to-

- (i) cease or refrain from engaging in any act, omission or course of conduct or perform such other acts as are necessary to remedy the situation;
- (ii) perform such acts as are necessary to comply with the directive or to effect the change; or
- (iii) provide the Registrar with such information and documents, relating to the matter as specified in the directive.

1.2 Circulars

The scope of circulars to be issued by this Office is to provide the relevant institutions with guidelines regarding the application and interpretation of the provisions of the Act.

1.3 Guidance Notes

Guidance notes are issued to provide information on market practices or market- or industry developments within or outside the Republic.

2. Directives

This Office intends to replace the under mentioned circulars with directives on 1 January 2008. Banks, controlling companies and branches of foreign banks are hereby invited to provide this Office with their comments on the proposed directives on or before 30 November 2007:

	<u>Current Circular</u>	<u>Brief Details</u>
2.1	Banks Act Circular 2/2001	Completion of compliance checklist. (A revised compliance checklist will be issued during the course of 2008)
2.2	Banks Act Circular 8/2001	Use of divisional names.
2.3	Banks Act Circular 2/2002	Procedure to be followed in respect of applications in terms of the provisions of sections 37, 52 and/or 54 of the Banks Act. (To incorporate the contents of Banks Act Circular 8/2002)
2.4	Banks Act Circular 6/2002	Requirements for completion of the statement and declaration of the Form BA 020 of the Regulations relating to Banks.
2.5	Banks Act Circular 10/2002	Disclosure of repurchase and resale agreements and similar transactions.
2.6	Banks Act Circular 4/2003	Composition of Board-appointed committee to approve large exposures.
2.7	Banks Act Circular 16/2004	Auditor rotation.

3. Circulars

This Office intends to re-issue the under mentioned circular on 1 January 2008. Accordingly, banks, controlling companies and branches of foreign banks and their independent auditors will be requested to retain a copy of this circular:

- 3.1 Banks Act Circular 5/2007 Final arrangements for parallel-run and other implementation issues.

4. Guidance Notes

This Office intends to replace the following circulars with guidance notes on 1 January 2008:

- 4.1 Banks Act Circular 5/2000 Position statement on personal account trading.
- 4.2 Banks Act Circular 14/2004 Outsourcing of functions within banks.
- 4.3 Banks Act Circular 4/2005 Issue of guidance note by the Financial Intelligence Centre in terms of section 4(c) of the Financial Intelligence Centre Act, 2001.
- 4.4 Banks Act Circular 2/2006 Electronic communication with this Office.
- 4.5 Banks Act Circular 6/2006 Cell-phone banking.
- 4.6 Banks Act Circular 9/2006 Development programme for directors of banks.

5. Circulars to Mutual Banks

This Office intends to replace the under mentioned circulars on 1 January 2008 with Mutual Banks Act Circulars.

- 5.1 Banks Act Circular 10/1999 The essential directives pertaining to liquid assets held in compliance with section 50 of the Mutual Banks Act, 1993.
- 5.2 Banks Act Circular 14/2001 Electronic submission of amended capital-adequacy ratio requirement DI returns to this Office by mutual banks.

Mutual banks and their independent auditors are furthermore requested to retain copies of Mutual Banks Act Circular 1/1996, regarding amendments to the form DI 310 of the Regulations relating to Mutual Banks, as well as Mutual Banks Act Circular 9/1997, regarding the electronic submission of statutory DI returns to this Office by mutual banks.

6. 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.

A handwritten signature in black ink, appearing to read 'E M Kruger', with a long, sweeping flourish extending to the right.

E M Kruger
Registrar of Banks