



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

C6/2014

2014-06-02

**To: All banks, controlling companies, branches of foreign institutions, eligible institutions and auditors of banks or controlling companies**

**Circular 6/2014 issued in terms of section 6(4) of the Banks Act, No. 1994 of 1990**

**Interpretation of specified conditions for the issuing of instruments or shares which rank as additional tier 1 capital and tier 2 capital**

### **Executive summary**

The Office of the Registrar of Banks (this Office) hereby informs all relevant persons of the interpretation of the definition of 'associated', as set out in regulations 38(13)(b)(iv)(E) and 38(14)(a)(iv)(F) of the Regulations relating to Banks (the Regulations), in order to clarify who may hold or acquire instruments or shares which rank as additional tier 1 or tier 2 capital.

#### **1. Introduction**

1.1 In terms of regulations 38(13)(b)(iv)(E) and 38(14)(a)(iv)(F) of the Regulations, instruments or shares which rank as additional tier 1 capital and tier 2 capital respectively shall not be held or acquired by the bank or any person related to or associated with the bank or over which the bank exercises or may exercise control or significant influence.

#### **2. Interpretation of 'associated' in the context of regulations 38(13)(b)(iv)(E) and 38(14)(a)(iv)(F) of the Regulations**

2.1 In the context of regulations 38(13)(b)(iv)(E) and 38(14)(a)(iv)(F) of the Regulations only, 'associated' relates to the relevant bank or controlling company or a related party over which the bank and/or controlling company exercises or may exercise control or significant influence. The term therefore excludes a shareholder of the bank or controlling company itself; as the bank or controlling company has no control or significant influence over such a shareholder.

### 3. 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 and the said auditors, must be returned to this Office at the earliest convenience of the aforementioned signatories.

Yours sincerely

A handwritten signature in black ink, appearing to be 'RW' with a stylized flourish.

René van Wyk  
**Registrar of Banks**

The Previous circular issued was Banks Act Circular 5/2014, dated 14 April 2014