



Ref.: 15/8/1/1

C3/2023

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

Circular issued in terms of section 6(4) of the Banks Act 94 of 1990

Eligibility of a Sukuk bond issuance on behalf of the National Treasury to qualify as level one high-quality liquid assets for specified institutions

Executive Summary

The purpose of this Circular is to provide clarity to all banks, branches of foreign institutions, controlling companies, eligible institutions and auditors of banks or controlling companies (hereinafter collectively referred to as ‘banks’) of the eligibility of a Sukuk bond issuance on behalf of the National Treasury (NT) to qualify as level one high-quality liquid assets (HQLA) as defined in section 1 of the Banks Act 94 of 1990 (Banks Act) for specified banks.

1. Introduction

1.1 The issuance of a Sukuk bond¹ on behalf of the NT will be the first following the amendments to the Banks Act definitions to include, among others, level one HQLA, which became effective from 1 January 2013. Section 1 of the Banks Act defines level one HQLA as:

- (a) cash;
- (b) gold coin and bullion;
- (c) such percentage or amount of central bank reserves as may be determined by the Governor of the Reserve Bank from time to time; and
- (d) marketable securities representing claims on or claims guaranteed by sovereigns, central banks, non-central government public sector entities, the Bank for International Settlements, the International Monetary Fund, the European Commission or multilateral development banks that comply with such requirements or such conditions as may be prescribed.

¹ A Sukuk bond refers to instruments issued in compliance with Shari’ah law.

- 1.2 The unique structure of a Sukuk bond requires clarification on the eligibility of such instruments to be regarded as qualifying level one HQLA.
- 1.3 The purpose of this Circular is therefore to provide clarity regarding the application and interpretation of section 1 of the Banks Act, read with regulation 26(12)(a) and regulation 26(12)(b)(i)(A)(ii) of the Regulations relating to Banks (the Regulations) regarding the eligibility of a Sukuk bond issuance on behalf of the NT to qualify as level one HQLA.

2. Clarification of eligibility of a Sukuk bond to qualify as level one HQLA

- 2.1 One of the key matters that requires clarification is the liquidity of a Sukuk bond issued on behalf of the NT in the local market.
- 2.2 Regulation 26(12)(a) of the Regulations specifies various operational and market liquidity related requirements for instruments qualifying as HQLA.
- 2.3 The Prudential Authority (PA) acknowledges that if a Sukuk bond constitutes eligible collateral for the South African Reserve Bank's open market operations, such instrument can be regarded as liquid for purposes of the Regulations.
- 2.4 Regulation 26(12)(b)(i)(A)(ii) of the Regulations states that a debt security issued in Rand by the central government of the Republic of South Africa or the South African Reserve Bank qualifies as level one HQLA.
- 2.5 Furthermore, paragraph LCR 30.47 of the Basel framework² issued by the Basel Committee on Banking Supervision states, among others, national supervisors in jurisdictions in which Shari'ah compliant banks conduct business have the discretion to define Shari'ah compliant financial products, such as Sukuk, as alternative HQLA applicable to such banks only, subject to such conditions or haircuts that the supervisors may require. The intention of this treatment is not to allow Shari'ah compliant banks to hold fewer HQLA.
- 2.6 Based on the aforesaid, the PA hereby clarifies that a Sukuk bond complying with the relevant requirements specified in the Banks Act read with the Regulations, this Circular and such further requirements as may be directed in writing by the PA, will be considered an issuance by the central government of South Africa and therefore qualifies as level one HQLA for banks solely conducting Shari'ah compliant business or to the extent of banks managing Shari'ah compliant portfolios.

² Available online: [Basel LCR framework](#).

3. Acknowledgement of Receipt

- 3.1 Kindly ensure that a copy of this Circular is made available to 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 the PA at the earliest convenience of the aforementioned signatories.

Fundi Tshazibana
Chief Executive Officer

Date:

The previous circular issued was Banks Act Circular 2/2023, dated 25 July 2023.