



South African Reserve Bank

From the Office of  
the Registrar of Banks

D1/2011

2011-05-03

**To: Banks, controlling companies, branches of foreign institutions and auditors of banks or controlling companies.**

**Directive 1/2011 to be issued in terms of section 6(6) of the Banks Act, 1990**

**Matters related to securitisation vehicles**

**Executive summary**

**A.1 In light of certain risks revealed by the financial markets crisis in some securitisation structures, additional risk information is required by the Bank Supervision Department (BSD), to enhance the BSD's understanding of the risks in the South African securitisation market.**

**A.2 The purpose of this proposed directive is**

**A.2.1 to specify information to be furnished by banks, controlling companies and branches of foreign institutions in respect of all their issuer special purpose institutions (SPIs) to the BSD, on a quarterly basis.**

**A.2.1 to require certification of information furnished to the BSD.**

**A.2.2 to require that the auditor appointed by the issuer SPI, as prescribed in paragraph 15(1)(a) of Government Notice No. 2, (the Securitisation Notice), published in *Government Gazette* No. 30628, dated 1 January 2008, include the verification of the historical information prescribed in Annexure A in the scope of work to be done, as part of the annual audit process.**

**1. Introduction**

**1.1 During 2007 and 2008, several banks in both the United States of America and Europe were required to make significant provisions and write-offs as a result of the credit crisis that emanated from the so-called 'sub-prime' mortgage market. In addition, liquidity in the financial sectors of the aforementioned regions was significantly constrained.**

- 1.2 The credit markets in certain regions of the world started to contract significantly in late 2007. Furthermore, the credit quality of assets began to deteriorate, which was fuelled by large-scale de-leveraging in the financial sector. Some holders of high-quality portfolios, such as rated corporate paper, began to sell their assets at discounts in order to meet demand for liquidity. Banks stopped lending to each other and certain central banks were forced to become extensively involved in efforts to restore confidence in financial markets.
- 1.3 The turmoil in the international financial markets that started in 2007 gathered momentum during 2008 and early 2009, resulting in significant distress in certain large corporate institutions. In an effort to mitigate the impact, interest rates were reduced and large bail-out plans were approved in various jurisdictions.
- 1.4 Following the aforementioned events, the BSD directed all banks partaking in securitisation activities during April 2008, in terms of the provisions of section 7(1)(b) of the Banks Act, 1990 (Act No. 94 of 1990 - the Act), to furnish it with a report by a person with the appropriate professional skill, which report was subsequently submitted to the Registrar.
- 1.5 The purpose of this directive is to enhance monitoring by this Office, of risks arising from securitisation schemes, by introducing further reporting requirements for banks, controlling companies and branches of foreign institutions in respect of issuer SPIs.

## **2. Banks Act, 1990**

- 2.1 Paragraph (cc) of the definition of 'the business of a bank', in paragraph 1 of the Act excludes:
  - 2.1.1 "any activity of a public sector, governmental or other institution, or of any person or category of persons, designated by the Registrar, with the approval of the Minister, by notice in the *Gazette*, provided such activity is performed in accordance with such conditions as the Registrar may with the approval of the Minister determine in the relevant notice".

## **3. Regulations relating to Banks**

- 3.1 Form BA 500 and regulation 35(2) of the Regulations relating to Banks (the Regulations) specify:
  - 3.1.1 "The purpose of the BA 500, amongst other things, is (a) to determine the amount of assets securitised by the reporting bank; (b) to determine the required amount of capital and reserve funds of the reporting bank in respect of securitisation exposures; (c) to obtain selected information in relation to securitisation schemes, including selected information relating to the role(s) played by the reporting bank in respect of securitisation schemes."

3.2 Furthermore, given the consultation process followed with banks, controlling companies and branches of foreign institutions, and based on the content of this proposed directive, the further specified information to be furnished by banks, controlling companies and branches of foreign institutions in respect of all their issuer SPI to the BSD, on a quarterly basis, is currently considered for incorporation into the Regulations during the next round of amendments to the Regulations.

#### **4. Other relevant references**

4.1 References in the Act: Designation of an activity not falling within the meaning of 'the business of a bank' (securitisation schemes).

4.1.1 Paragraph 14 (1)(b)(ii)

4.1.1.1 "Conditions relating to the issue of commercial paper: (ii) shall be issued only by a juristic person authorised in writing by the Registrar to issue commercial paper pursuant to a traditional or synthetic securitisation scheme, in accordance with the provisions of this Schedule and subject to such further conditions as the Registrar may determine in such written authorisation."

4.1.2 Paragraph 15(1)(a): Appointment of auditor

4.1.2.1 "The board of directors or the trustee, as the case may be, of a special-purpose institution established for purposes of a traditional or synthetic securitisation scheme shall appoint an auditor ..."

4.2 A publication by the Basel Committee on Banking Supervision titled 'Liquidity Risk: Management and Supervisory Challenges', issued on 21 February 2008, pertaining to liquidity risks resulting from securitisation schemes ((paragraph (ii)(C)).

4.2.1 Securitisation

4.2.1.1 "Some forms of securitisation (i.e. asset backed commercial paper) give rise to contingent liquidity risk, i.e. the likelihood that a firm will be called upon to provide liquidity unexpectedly, potentially at a time when it is already under stress. For example, some firms provide liquidity backstop arrangements in which they commit to provide funding if certain agreed-upon conditions occur, ensuring timely payment of principal and interest to holders of the commercial paper and thus contingent funding of the assets. Another example of contingent liquidity risk arises from early amortisation provisions incorporated into securitisations of revolving credits (eg credit card receivables). Lastly, additional liquidity needs can be created when institutions provide support to conduits and off-balance sheet vehicles they have sponsored even if not contractually obligated to do so, as they judge that the failure to provide such support would have a material adverse impact on their reputation."

4.3 The publication by the Basel Committee on Banking Supervision, namely: 'Enhancements to the Basel II framework', which covers the committee's amended standard to strengthen Pillar 1 (minimum capital requirements in addition to those covered under the trading book), Pillar 2 (supervisory review process) and Pillar 3 (market discipline).

#### 4.3.1 Ratings resulting from self guarantees

4.3.1.1 “The Basel Committee added language to the Basel II framework so that a bank cannot recognise ratings – either in the Standardised Approach (SA) or in the Internal Ratings Based (IRB) Approach – that are based on guarantees or similar support provided by the bank itself.”

#### 4.3.2 Re-securitisation risk weights applicable under the SA

4.3.2.1 “After reviewing the empirical work conducted in assessing IRB re-securitisation risk weights, the Committee believes that the rationale for applying higher risk weights to re-securitisations in the IRB Approach is equally applicable to the SA”.

### 5. Factors influencing the final decision

5.1 The BSD authorises issuer SPI schemes to issue commercial paper pursuant to a securitisation scheme in terms of paragraph 14(1)(b)(ii) of Government Notice No. 2, (the Securitisation Notice), published in *Government Gazette* No. 30628, dated 1 January 2008. Thereafter, sufficient follow-up should be done to monitor the performance of the issuer SPI.

5.1.1 The form BA 500 captures securitisation exposures on a bank-solo level, which resulted in certain issuer SPI schemes being excluded from reporting in terms of form BA 500. Furthermore, the said BA form does not require extensive credit risk and liquidity risk information to be reported.

5.1.2 In addition to the form BA500, the form BA210 only relates to on- and off-balance-sheet exposures of banks to securitisation schemes.

5.2 The aforementioned resulted in the BSD not receiving sufficient information that would enable it to obtain a better understanding of the risks in the South African securitisation market.

5.3 As required in regulations 36 and 39 of the Regulations, boards of directors and senior management are required to understand the banking group-wide risk profile, including concentrations, and to aggregate banking group-wide exposure information appropriately.

### 6. Directive

6.1 Banks, controlling companies and branches of foreign institutions shall furnish information as set out in **Annexure A**, in respect of both their traditional and synthetic securitisation schemes for which approval was obtained from this Office, in terms of current and prior exemption notices, to issue commercial paper.

6.2 The stated information shall be furnished to this Office on a quarterly basis.

- 6.3 An independent issuer SPI director or trustee and the chief financial officer of the bank, controlling company or branch of foreign institution shall furnish a declaration as set out in **Annexure A**.
- 6.4 The auditor appointed by the issuer SPI, as prescribed in paragraph 15(1)(a) of Government Notice No. 2, (the Securitisation Notice), published in *Government Gazette* No. 30628, dated 1 January 2008, shall include the verification of the historical information specified in **Annexure A** in the scope of work to be done, as part of the annual audit process.
- 6.5 The information as set out in **Annexure A** shall be submitted to the BSD within 30 business days immediately following the quarter-end, of the SPI, to which the specified statement and return relates.
- 6.6 In the context of the information required:
- 6.6.1 The classification categories for purposes of this proposed directive shall be: performing, special mention, substandard, doubtful and loss that are further described in regulation 24(5)(c) of the Regulations.
- 6.7 Scope of application
- 6.7.1 The reporting requirements will be applicable to all issuer SPIs of traditional or synthetic securitisation schemes relating to banks, controlling companies and branches of foreign institutions that were authorised by the BSD to issue commercial paper in terms of the current and prior securitisation notices.
- 6.8 This directive shall be applied in respect of quarterly periods from 30 June 2011 onwards.
- 7. Acknowledgement of receipt**
- 7.1 Two additional copies of this directive 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 directive issued was Directive 3/2009 dated 5 February 2009.