



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

D1/2014

2014-06-09

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

Directive 1/2014 issued in terms of section 6(6) of the Banks Act, 1990

Matters related to assets lodged or pledged to secure liabilities

Executive summary

In terms of the Financial Reporting Standards (Financial Reporting Standards) as defined in regulation 67 of the Regulations relating to Banks (the Regulations), when a bank sells a financial asset in terms of a repurchase agreement, the transfer of that asset does not qualify for derecognition and the bank has to recognise (a) the transferred asset in its entirety; and (b) a financial liability for the relevant consideration received.

In terms of the provisions of regulation 38(5)(a)(i)(N) of the Regulations, a bank or controlling company (hereinafter collectively referred to as 'banks') shall deduct from its common equity tier 1 capital and reserve funds the value of assets lodged or pledged to secure liabilities incurred under any other law when the effect of such lodging or pledging is that such assets are not available for the purpose of meeting the liabilities of the bank in terms of the Banks Act, 1990 (Act No. 94 of 1990 – the Act).

The purpose of this directive is to clarify, among other things, the requirement to deduct the value of assets lodged or pledged to secure liabilities from common equity tier 1 capital and reserve funds.

1. Introduction

- 1.1 In its simplest form, the business of a bank essentially includes (a) the acceptance of deposits from the general public as a regular feature; (b) the use of the proceeds of these deposits to lend to other customers, for a variety of reasons; and (c) to make various investments to ultimately create value and contribute to sustainable economic growth. The safety and soundness of banks are ensured by imposing on banks, among other things, certain prudential requirements, including the maintenance of minimum required capital and reserve funds. The Act and the Regulations encapsulate, among other things, these fundamental principles and requirements related to banking.

- 1.2 In terms of the relevant requirements specified in Financial Reporting Standards issued from time to time, when a bank, for example, sells a financial asset in terms of a repurchase agreement, that is, when a bank sells a financial asset subject to an agreement to repurchase the asset at a future date, the transfer of that asset does not qualify for derecognition and as such the bank shall continue to recognise (a) the transferred asset in its entirety; and (b) a financial liability for the relevant consideration received. In such cases the financial asset thus sold normally serves as security for the related financial liability so created.
- 1.3 In terms of the provisions of regulation 38(5)(a)(i)(N) of the Regulations, based on the relevant requirements specified in sections 70 and 70A of the Act, a bank shall deduct from its common equity tier 1 capital and reserve funds the value of assets lodged or pledged to secure liabilities incurred under any other law when the effect of such lodging or pledging is that such assets are not available for the purpose of meeting the liabilities of the bank in terms of the Act, provided that, subject to such conditions and treatment as may be specified in writing by the Registrar, the Registrar may determine cases in which the value of assets lodged or pledged to secure liabilities of the bank does not constitute a deduction against the common equity tier 1 capital and reserve funds of the said bank.
- 1.4 The purpose of this directive is to clarify that a bank is not required to deduct from its common equity tier 1 capital and reserve funds the value of an asset lodged or pledged to secure a financial liability that arose from a repurchase agreement as envisaged hereinbefore.

2. Directive

- 2.1 Based on the aforesaid information, and in terms of the provisions of section 6(6) of the Act, banks are hereby directed:
 - 2.1.1 to ensure that all repurchase and resale agreements entered into between them and their clients at all times comply fully with all the relevant requirements specified in the Regulations and in the applicable Financial Reporting Standards issued from time to time, including any relevant requirement related to measurement and disclosure;
 - 2.1.2 not to deduct from their common equity tier 1 capital and reserve funds the value of assets lodged or pledged to secure liabilities that arise from any repurchase agreement envisaged hereinbefore, and accounted for in accordance with the relevant Financial Reporting Standards issued from time to time; and
 - 2.1.3 to deduct from their common equity tier 1 capital and reserve funds the value of assets lodged or pledged to secure liabilities incurred under any other law, other than assets lodged or pledged to secure any liability that arises from a repurchase agreement as envisaged in paragraph 2.1.2 above, when the effect of such lodging or pledging is that such assets are not available for the purpose of meeting their liabilities in terms of the Act.

3. Acknowledgement of receipt

- 3.1 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.



Registrar of Banks

The previous directive issued was Directive 14/2013, dated 17 December 2013.