

*The Banking and Financial Institutions (Capital Adequacy)
Regulations, 2014*

GN. No. 290

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THE BANKING AND FINANCIAL INSTITUTIONS (CAPITAL
ADEQUACY) REGULATIONS, 2014

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GN. No. 290

THE BANKING AND FINANCIAL INSTITUTIONS ACT

(CAP 342)

REGULATIONS

(Made under Section 71)

THE BANKING AND FINANCIAL INSTITUTIONS
(CAPITAL ADEQUACY) REGULATIONS, 2014

PART I
PRELIMINARY PROVISIONS

Citation	1. These Regulations may be cited as the Banking and Financial Institutions (Capital Adequacy) Regulations, 2014.
Application	2. These Regulations shall apply to all banks and financial institutions except where prescribed otherwise by the Bank in any other Regulations.
Interpretation	3. In these Regulations, unless the context otherwise requires- “Act” means the Banking and Financial Institutions Act; “Bank” means the Bank of Tanzania; “bank” has the meaning ascribed to it in the Act; “community bank” means a financial institution serving a defined geographical area whose primary activities shall be restricted to acceptance of deposits and lending and such other activities as the Bank may specify; “core capital” has the meaning ascribed to it in the Act; “credit accommodation” means loans, overdrafts and advances, leases, acceptances, performance and bid bonds, letters of credit, guarantees, foreign exchange contracts, and any other form of a direct or indirect financial obligation to a bank or financial institution; “deposit” has the meaning ascribed to it in the Act; “financial cooperative” has the meaning ascribed to it in the Banking and Financial Institutions (Financial Cooperative

GN. No. 8
of 2005

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- Societies) Regulations, 2005;
- “financial institution” has the meaning ascribed to it in the Act;
- “fully-fledged bank” means a bank or financial institution which conducts all permissible activities pursuant to the provisions of the Act;
- “limited-scope bank” means a bank or financial institution which carries out limited scope banking business including limitation of accepting deposits payable upon demand or subject to withdrawal by cheque;
- “long position” means the holding by a bank or financial institution of a currency, security or other asset for its own account in excess of all its contractual spot and forward transaction commitments in that currency, security or other asset;
- “market risk” means a current or prospective exposure to earnings or capital arising from adverse movements in market prices of foreign exchange, equity and commodity prices and interest rates;
- “microfinance bank” means a bank or financial institution which undertakes banking business mainly with individuals, groups and micro and small enterprises in rural or urban areas;
- “net open position” means the net sum of all foreign exchange assets and liabilities of a bank or financial institution inclusive of all of its spot and forward transactions and off balance sheet items in that foreign currency;
- “off balance sheet exposure” has the meaning ascribed to it in the Act;
- “officer” has the meaning ascribed to it in the Act;
- “short position” means the holding by a bank or financial institution of a currency, security or other asset for its own account less than all its contractual spot and forward transaction commitments in that currency, security or other asset;
- “significant interest” has the meaning ascribed to it in the Act;
- “subordinated debt” means a debt with original fixed term maturity of not less than 5 years and satisfying the Bank’s conditions for supplementary capital as stipulated in regulation 16 of these Regulations;
- “subsidiary” has the meaning ascribed to it in the Act;
- “supplementary capital” has the meaning ascribed to it in the Act;

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“total capital” has the meaning ascribed to it in the Act; and
“undercapitalized” means having core capital of less than the
minimum capital required under these Regulations.

Objectives

4. The objectives of these Regulations are to-
- (a) ensure that banks and financial institutions maintain a level of capital which is adequate to protect them against the risk of loss that may arise out of their business activities;
 - (b) ensure that banks and financial institutions maintain capital adequacy standards in line with internationally accepted best practices; and
 - (c) promote and maintain public confidence in the banking sector.

PART II
CAPITAL ADEQUACY REQUIREMENTS

Minimum
core capital

5. A bank or financial institution shall commence operations with and maintain at all times a minimum core capital of not less than the amount indicated in the Schedule to these Regulations or such higher amount as the Bank may determine.

Prohibition
from operating
demand
deposit
account

6.-(1) A bank or financial institution other than a fully-fledged bank shall not accept or receive money on current account subject to withdrawal by cheque unless it has minimum core capital of fifteen billion shillings and has obtained prior approval of the Bank.

(2) Where at the date of publication of these Regulations a bank or financial institution is not in compliance with the requirements of sub-regulation (1) the bank or financial institution shall, within three years from the date of publication, either increase its core capital to the level required or phase out its operation of accepting or receiving money on current account subject to withdrawal by cheque.

(3) A bank or financial institution shall submit to the Bank a detailed plan containing the steps it would take to raise its core capital to the level required or phase out its operation of

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accepting or receiving money on current account subject to withdrawal by cheque.

(4) Where the bank or financial institution is unable to comply with the requirements of sub-regulation (1) at the end of the period specified in sub-regulation (2), the bank or financial institution shall phase out its operation of accepting or receiving money on current account subject to withdrawal by cheque within six months.

Requirements
for community
banks

7.- (1) A community bank shall not establish a branch, agency or other office unless it has a minimum core capital of five billion shillings and has obtained prior approval of the Bank.

(2) Shareholders of a community bank shall, in accordance with a capital build-up programme approved by the Bank at the time of licensing, increase the core capital to not less than twice the minimum amount specified under regulation 5 within a period of five years from the date of approval of its license.

(3) Every holder of a significant interest in a community bank shall execute an undertaking to fulfill, *inter alia*, his obligations under the capital build-up programme approved by the Bank, and to abide by any order, instruction or directive which the Bank may issue.

Computation
of capital for
financial
cooperatives

8.-(1) Membership shares, non-distributable reserves created or increased by appropriations of surpluses, and any other non-distributable funds of a permanent nature held by a financial cooperative not subject to a legal claim by any person shall qualify as capital in computing capital position of the financial cooperative.

(2) Special purpose reserves such as education, social services, share transfer fund, membership in secondary cooperative societies or others shall not be considered in the computation of the capital.

(3) Where the Bank determines that a financial cooperative society has insufficient capital, it shall direct such financial cooperative society to increase its capital above the

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requirements of the Banking and Financial Institutions (Financial Cooperative Societies) Regulations, 2005, or such higher level as the Bank may determine.

Capital
adequacy
ratios

9. A bank or financial institution shall at all times maintain a minimum-

- (a) core capital of not less than twelve and one half per cent of its total risk-weighted assets and off balance sheet exposure; and
- (b) total capital of not less than fourteen and one half per cent of its total risk weighted assets and off balance sheet exposure.

Risk weighted
assets and off-
balance sheet
items

10. The total risk-weighted assets and total risk-weighted off balance sheet exposures shall be determined in accordance with procedures stipulated by the Bank.

Capital charge
for market risk
and
operational
risk

11.-(1) A bank or financial institution shall measure and apply capital charges in respect of market risk and operational risk.

(2) The minimum capital requirements for foreign exchange risk, interest rate risk and equity position risk shall be determined by applying the Standardized Measurement Method specified by the Basel Committee on Banking Supervision or such other methods as the Bank may approve.

(3) The minimum capital requirements for operational risk shall be determined by applying the Basic Indicator Approach specified by the Basel Committee on Banking Supervision or such other methods as the Bank may approve.

(4) Banks and financial institutions will be given a moratorium of one year from the date of publication of these Regulations to comply with the requirements of sub-regulation (3).

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Exemption
from market
risk
requirements

12. A bank or financial institution may apply to the Bank to be exempted from the capital adequacy requirements for market risk or any part thereof, provided it can demonstrate that on a continuing basis-

- (a) its foreign currency business, defined as the greater of the sum of its gross long positions and gross short positions in all foreign currencies, does not exceed one hundred percent of core capital, and the overall net open position does not exceed two percent of core capital; and
- (b) its total trading book assets do not exceed five percent of total assets.

Trading book

13. Financial instruments, including derivative products such as forwards, options or swaps, shall be allocated to the trading book if they are-

- (a) held for short-term resale;
- (b) purchased with the intention of benefiting in the short term from actual or expected differences between their buying and selling prices , or from other price or interest rate variations;
- (c) arising from broking or market-making; or
- (d) held in order to hedge other elements of the trading book.

Computation
of capital
adequacy ratio

14.-(1) The capital charges for market risk and operational risk calculated under regulation 11 shall be multiplied by the reciprocal of the minimum capital adequacy ratio of fourteen and one half per cent and added to the sum of risk-weighted assets.

(2) The capital adequacy ratios for a bank or financial institution shall be calculated in relation to the sum mentioned in sub-regulation (1) by using core capital and total capital to determine whether the bank or financial institution satisfies the minimum requirements.

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Available
capital

15. In determining the amount of available capital for the purposes of computing the minimum capital required under these Regulations, the bank or financial institution shall consider the following-

- (a) fifty per cent of the year to date profits where accounts are unaudited;
- (b) one hundred percent of the year to date profits where accounts have been audited subject to submission of the signed accounts to the Bank; and
- (c) amount of the investment of the bank or financial institution in the capital of another company, firm, entity or subsidiary to the extent of the reciprocal investment of such company, firm, entity or subsidiary in the capital of the bank or financial institution shall be deducted from the capital of that bank or financial institution.

Subordinated
debt

16. The aggregate amount of subordinated debt that may be eligible and recognized by the Bank as supplementary capital shall be limited to fifty percent of core capital, provided that such subordinated debt shall-

- (a) be discounted by a cumulative factor of twenty percent per year during the last five years to maturity;
- (b) be unsecured, uninsured and are not a deposit;
- (c) have an original maturity of not less than five years;
- (d) be subordinated to claims of all depositors and general creditors of the bank or financial institution;
- (e) not be redeemable at the option of the holder prior to maturity, except with the prior approval of the Bank; and
- (f) have no requirement for payments of principal or

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interest except to the extent that the bank or financial institution is solvent and shall remain solvent immediately thereafter.

Hybrid instruments or preferred stock

17. A bank or financial institution intending to include in supplementary capital, any hybrid instrument or preferred stock not qualifying as core capital for the purposes of satisfying the requirements of these Regulations shall apply to the Bank for approval.

Additional capital requirements

18.-(1) The Bank may prescribe additional capital requirements based on the risk profile of a bank or financial institution.

(2) A bank or financial institution authorized to carry out the function of a trustee, to establish a branch or subsidiary abroad, or to perform additional activities specified in the Banking and Financial Institutions (Licensing) Regulations, shall be required to comply with additional capital requirements prescribed by the Bank.

Application on solo and consolidated basis

19.-(1) Where a bank or financial institution directly or indirectly owns or controls another bank or financial institution, the capital adequacy requirements shall be satisfied by each bank or financial institution on a solo basis, and the parent company shall comply with the capital adequacy requirements on a solo and consolidated basis.

(2) For the purpose of computing the capital position, the principal office of each bank or financial institution in the United Republic and all its branches and agencies, regardless of country of domicile, shall be considered as a single unit.

(3) For the purpose of this regulation parent company means the bank or financial institution that directly or indirectly controls another bank or financial institution.

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Remedial
measures

20. Where, in the opinion of the Bank, a bank or financial institution is undercapitalized, the Bank shall take measures prescribed in the Banking and Financial Institutions (Prompt Corrective Action) Regulations, to address the undercapitalization and nothing in such Regulations or these Regulations shall preclude the Bank from taking other remedial measures provided by the Act.

**PART III
GENERAL PROVISIONS**

Computation
of capital

21. A bank or financial institution shall-

- (a) compute in the prescribed manner its capital position by comparing its required capital with its available capital as at the close of business for the day;
- (b) include in the computation of the required minimum capital any directive to increase its capital; and
- (c) maintain suitable and adequate records to facilitate verification of its capital position.

Market risk
exposure
report

22. A bank or financial institution shall within fifteen days following the end of the reference month, unless exempted under regulation 12, submit to the Bank its monthly market risk exposure report in the format prescribed by the Bank.

External
Auditor's
statement

23. A bank or financial institution shall require its External auditor to review its capital position as at the end of each financial year, taking into account the requirements of the Act and all Regulations issued thereunder and draw a note on the adequacy of its capital in the Audited Financial Statements.

Sanctions and
Penalties

24.-(1) Without prejudice to penalties and actions prescribed by the Act, failure to comply with any provision of these Regulations shall attract one or more of the following sanctions-

- (a) prohibition from declaring or paying dividends;
- (b) suspension from opening new branches;
- (c) suspension of access to the credit facilities of the Bank;
- (d) suspension from lending and investment operations;

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- (e) suspension of the activity to issue letters of credit or guarantees;
- (f) suspension of capital expenditure;
- (g) revocation of banking license;
- (h) suspension from office of the defaulting director, officer or employee; and
- (i) disqualification from holding any position or office in any bank or financial institution under the supervision of the Bank.

(2) Any director or officer of a bank or financial institution who intentionally sanctions or votes for the approval of any credit accommodation, branch expansion or capital expenditure while the bank or financial institution remains under suspension as provided under paragraphs (b) to (f) of sub-regulation (1) shall be suspended from office.

(3) The suspension from office prescribed under paragraph (h) of sub-regulation (1) shall be without prejudice to any other punitive measures the Bank may take against the defaulting director, officer or employee.

Revocation
GN No. 373
of 2008

25. The Banking and Financial Institutions (Capital Adequacy) Regulations, 2008 are hereby revoked.

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SCHEDULE

(Made under Regulation 5)

***MINIMUM CORE CAPITAL REQUIREMENTS FOR BANKS AND FINANCIAL
INSTITUTIONS***

<i>S/No.</i>	<i>Types of Institutions</i>	<i>Minimum Core Capital</i>
1.	Fully-fledged Banks	
	Commercial Banks	fifteen billion shillings
	Cooperative Banks (Nation-wide network)	fifteen billion shillings
2.	Limited Scope Banks	
	Microfinance Banks	five billion shillings
	Community Banks	two billion shillings
	Cooperative Banks (Regional)	five billion shillings
3.	Specialized Institutions	
	Development Finance Institutions	fifty billion shillings
	Finance Lease Companies	one billion shillings
	Housing Finance Companies	seven and one half billion shillings
	Tanzania Mortgage Refinance Company (TMRC)	six billion shillings
	Merchant Banks	twenty five billion shillings
	Islamic Banks	fifteen billion shillings

Dar Es Salaam,
....., 2014

BENNO J. NDULU
Governor