

THE BANKING AND FINANCIAL INSTITUTIONS
(MANAGEMENT OF RISK ASSETS) REGULATIONS, 2014

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THE BANKING AND FINANCIAL INSTITUTIONS ACT
(CAP. 342)

REGULATIONS

(Made under section 71)

THE BANKING AND FINANCIAL INSTITUTIONS (MANAGEMENT OF
RISK ASSETS) REGULATIONS, 2014

PART I
PRELIMINARY PROVISIONS

- Citation **1.** These Regulations may be cited as the Banking and Financial Institutions (Management of Risk Assets) 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;
 - “bank or financial institution” means a bank or financial institution;
 - “connected party” has the meaning ascribed to it in the Act;
 - “credit accommodation” means loans, overdrafts and advances, leasing, acceptances, performance and bid bonds, letters of credit, guarantees, foreign exchange contracts or any other form of a direct or indirect financial obligation including interest due

- and unpaid to a bank or financial institution;
- “director” has the meaning ascribed to it in the Act;
- “financial institution” has the meaning ascribed to it in the Act;
- “loro account” means an account of a bank in a foreign country maintained in the books of a bank or financial institution operating in United Republic;
- “non-performing loan” means any credit accommodation for which contractual obligation for repayment is past due for more than ninety days or is classified as substandard, doubtful or loss under the criteria prescribed in Regulation 11, and is placed on a non-accrual basis;
- “nostro account” means a bank account held in a foreign country by a bank or financial institution operating in United Republic denominated in foreign currency;
- “off balance sheet items” has the meaning ascribed to it in the Act;
- “other risk assets” includes total assets of a bank or financial institution minus its loans, cash, gold, amounts due from the Bank, Government securities, securities issued by the Bank, Government securities issued by other Government institutions which are unconditionally guaranteed by the Government as to repayment of principal and interest at maturity date, bank premises, furniture and equipment, and such other assets as may be declared by the Bank as non-risk;
- "related party"
- (a) in relation to a body corporate means-
- (i) its holding company or its associates;
 - (ii) a subsidiary of its holding company;
 - (iii) a holding company of its subsidiary;
 - (iv) any person who controls the company or body corporate whether alone or with his related party or with other related parties of it; and

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- (b) in relation to an individual means-
 - (i) any member of his family;
 - (ii) any company or other body corporate controlled directly or indirectly by him whether alone or with his related parties; or
 - (iii) any related party of his related parties, and it includes connected party;

“member of a family” means parent, spouse, brother, sister, child, uncle, aunt, nephew, niece, grandfather, grandmother, stepfather, stepmother, stepchild, and adopted child of the person concerned, and in case of an adopted child his adopter or adopters;

“restructured credit accommodation” means a credit accommodation whose terms and conditions have been modified in terms of repayment period, repayable amount, installments or rate of interest due to economic or other reasons relating to the borrower’s financial difficulty; and

“unsecured loans” means credit accommodations granted without security or when granted against security, any part of such credit accommodation which at any given time exceeds the market value of assets comprising the security given or which exceeds the value determined by independent professional valuer and approved by the bank or financial institution whenever it deems that no ascertainable market value exists for the said assets.

Objectives

- 4. The objectives of these Regulations are to ensure that banks and financial institutions have-
 - (a) adequate credit and investment policies to identify, measure, monitor and manage the risk arising from their businesses to ensure timely and adequate actions are taken on problem assets;

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- (b) maintain risk management standards that conform to the established international norms; and
- (c) promote and maintain public confidence in the banking sector.

**PART II
MANAGEMENT OF RISK ASSETS**

Risk
management
policies

5-(1) The Board of Directors of every bank or financial institution shall ensure that appropriate credit risk management policies are in place and are consistent with principles set forth in the Risk Management Guidelines for Banks and Financial Institutions issued by the Bank.

(2) The policies referred to under sub-regulation (1) shall, at minimum-

- (a) establish procedures and limits providing for adequate identification, measurement, monitoring, and control of the risks posed by its significant activities;
- (b) be consistent with complexity and size of the business, the institution's stated goals and objectives, and the overall financial strength of the institution;
- (c) clearly delineate accountability and lines of authority across the institution's activities; and
- (d) provide for the review of activities new to the bank or financial institution to ensure that the infrastructures necessary to identify, monitor, and control risks associated with an activity are in place before the activity is initiated.

Review of credit
policy

6-(1) The Board of Directors of a bank or financial institution shall review the credit policy on annual basis or more frequently as may be necessary to ensure that they remain appropriate and prudent.

(2) The policy referred to under sub-regulation

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(1) shall be submitted to the Bank not later than thirty days after being approved by the Board, provided that where any changes are made to the policy, the bank or financial institution shall clearly indicate areas of such changes.

Extensions or roll-overs

7.-(1) A bank or financial institution shall put in place clear and comprehensive policies specifically addressing circumstances and conditions under which credit accommodations may be extended, renewed, rolled over or restructured.

(2) Any matured or expired performing overdraft facility may be extended, renewed or rolled over and remain in the same classification category, provided there is no 'ever-greening' or hard core elements and all interest and charges due have been paid.

(3) A matured or expired non-performing overdraft facility may be extended, renewed or rolled over, provided that it shall not be upgraded into a better classification until it has satisfactorily performed for a minimum of two consecutive quarters.

(4) A restructured non-performing credit accommodation shall not be upgraded into a better classification category unless the borrower-

(a) in the case of overdraft facilities, has satisfactorily performed for a minimum of two consecutive quarters; or

(b) in the case of term loans, has timely paid four consecutive installments.

(5) A non-performing credit accommodation shall not be restructured more than twice.

Quarterly review and classification

8.-(1) A bank or financial institution shall review and classify its outstanding loans and other risk assets including contingent accounts or off balance sheet items at least once in every quarter.

(2) A bank or financial institution shall not

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upgrade a credit accommodation classified as non-performing into a better category unless the borrower-

- (a) in the case of term loans, has regularized the credit accommodation by timely paying at least four consecutive installments; or
- (b) in the case of overdrafts, upon a satisfactory performance for at least two consecutive quarters.

(3) Non-performing credit accommodations referred to under sub-regulation (2) shall be credit accommodations classified by the Bank or the bank or financial institution as non-performing as at the date of on-site examination.

(4) A bank or financial institution shall, at every quarterly review, notify the Bank of all credit accommodations referred to under sub-regulation (2) that have been upgraded into better classification categories indicating supporting reasons.

(5) Notwithstanding the requirements of sub-regulation (2), a bank or financial institution shall downgrade credit accommodations which have demonstrated weaknesses according to criteria specified in these Regulations.

Charge off of
credit
accommodations

9. A bank or financial institution shall, at every quarterly review, charge off all credit accommodations and other risk assets that have remained in the loss category for four consecutive quarters.

Past due loans
and over drafts

10.-(1) A credit accommodation with specific repayment dates shall be considered as past due in its entirety if any of its contractual obligation for payment has become due and unpaid.

(2) An overdraft or any other credit accommodation without specific payment due date shall be considered as past due if-

- (a) the credit accommodation exceeds customer's borrowing limit;

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- (b) the customer's borrowing tenure has expired;
- (c) the customer's account has been inactive for sixty days or more;
- (d) deposits are insufficient to cover interest calculated and due for the period;
- (e) a bill has been dishonoured due to insufficient funds; or
- (f) a bill or account is not paid on due date.

PART III
CLASSIFICATION OF LOANS AND OTHER RISK ASSETS

Classification

11.-(1) Credit accommodations shall be classified into the following categories-

- (a) current;
- (b) especially Mentioned;
- (c) substandard;
- (d) doubtful; and
- (e) loss.

(2) Non-performing credit accommodations shall include substandard, doubtful, and loss categories and be classified by a bank or financial institution according to the criteria prescribed in these Regulations.

(3) A bank or financial institution shall apply both qualitative and quantitative criteria in classifying its credit accommodations.

Credit accommodations fully secured by cash or near cash items

12. Credit accommodations which are fully secured, in respect of principal and interest, by cash or treasury bills, notes or bonds, or other instruments as the Bank may approve, shall be classified on the same basis as other credit accommodations, provided that provision against such accommodations may be required where the security is the object of an adverse claim.

Classification by quantitative criteria

13. Outstanding credit accommodations reviewed by quantitative approach shall be classified as follows:

Number of Days Past Due	Classification
91-180	Substandard
181-360	Doubtful
361 and more	Loss

Classification by qualitative criteria

14. A bank or financial institution shall, in addition to classifying credit accommodations as either current or past due, review qualitatively and classify such credit accommodations into current, especially mentioned, substandard, doubtful or loss.

Current classification

15. Current credit accommodations are those which do not have a greater than normal risk and do not possess the characteristics and weaknesses of classified credit accommodations as described in these Regulations.

Especially mentioned classification

16. Especially mentioned credit accommodations are those that are superior in quality to those classified as substandard, but which are potentially weak and thus require closer management supervision and include-

- (a) credit accommodations with technical defects and collateral exceptions such as-
 - (i) un-located collateral file and documents including but not limited to title papers and deeds, mortgage instruments and promissory notes;
 - (ii) improper execution of supporting deed of assignment, pledge agreement, or real mortgage;
 - (iii) unregistered mortgage instruments;
 - (iv) collateral not covered by appraisal reports or whose appraisal reports are un-located;
 - (v) credit accommodations where corresponding promissory notes or credit agreements were signed by a

- person other than the authorised officer of the borrowing firm;
 - (vi) credit accommodations secured by property the title to which bears an uncancelled lien or encumbrance;
 - (vii) collateral not insured or with inadequate or expired insurance coverage;
 - (viii) credit accommodations to companies not covered by authenticated board resolutions authorizing the borrowings; or
 - (ix) unsecured credit accommodations granted to directors and officers contrary to the provisions of subsection (2) of section 26 of the Act.
- (b) credit accommodations not supported by up-to-date and adequate financial statements or credit information and they include:
- (i) credit accommodations renewed, renegotiated or restructured without updated financial statements or income tax returns; or
 - (ii) credit accommodations without credit investigation or analysis reports or updated credit information independently verified by the lender.
- (c) credit accommodations that need the attention of management for special or corrective action or both, these includes-
- (i) credit accommodations wherein efforts to collect are not evident or are deemed inadequate;
 - (ii) credit accommodations granted beyond the discretionary limit of the approving authority;
 - (iii) drawings or availments against an expired credit line or drawings or availments

- without prior approval of the appropriate executive officers;
- (iv) credit accommodations to borrowers who failed to comply with conditionalities of the credit accommodations such as, failure to operate the account satisfactorily;
 - (v) credit accommodations to firms with profitable operations but belonging to a distressed industry;
 - (vi) combined indebtedness to the bank of a group of persons, firms or companies that are related, linked or connected to each other through common ownership, management or control or through common family or business interest where twenty-five per cent or more of such combined indebtedness is past due;
 - (vii) credit accommodations to borrower who frequently fails to respond to bank calls, visits or demand notices to pay; or
 - (viii) credit accommodations the repayment of which may be endangered by economic or market conditions or other factors which in the future may adversely affect the borrowers' ability to meet scheduled repayments such as declining or fluctuating operation, illiquidity, increasing leverage trend, or declining market prices over a given period.

Substandard classification

17.-(1) Credit accommodations classified as substandard are those with weaknesses that jeopardize their liquidation such as weakness inherent in loans especially mentioned which are more severe or which have remained uncorrected for more than ninety days.

(2) The weaknesses under sub-regulation (1) may include adverse trend or developments of financial, managerial, economic, or political nature, or a significant

weakness in collateral.

(3) The basic characteristics of credit accommodations for substandard classification are as follows-

- (a) credit accommodations which are non-performing;
- (b) credit accommodations which possess the technical defects and weakness of loans especially mentioned and which have remained uncorrected for more than ninety days since the occurrence of deficiency;
- (c) credit accommodations, whether current or past due, which have become unsound due to unfavourable results of operations of the borrower, significant under-capitalisation of the borrower, or absence of favourable track record showing borrower's financial responsibility;
- (d) term loans to borrowers whose cash flows are not sufficient to meet currently maturing debts and or overdrafts whose funds had been diverted or proceeds of the financed projects are not used to repay the amount outstanding; or
- (e) credit accommodations to distressed industries repayments of which are imperiled.

Doubtful
classification

18. Credit accommodations having the following basic characteristics shall be classified as doubtful-

- (a) credit accommodations classified as substandard in the last quarterly review without any significant improvement since then in terms of full payment of interest due, among other things, except where such loans are well-secured by legally enforceable collaterals, standby letters of credit and irrevocable guarantees of top rated international banks, or the government and that legal action has commenced and realization of collateral within one year or enforcement of the guarantees within thirty days from demand can be expected;
- (b) past due loans secured by collaterals such as inventories, receivables, equipment, and other chattels which have declined in value materially, without the borrower offering additional collateral and the borrower's financial condition does not justify unsecured lending;
- (c) past due loans secured by real mortgage title to which property is subject to an adverse claim rendering settlement of the loan through foreclosure doubtful or unviable; or
- (d) credit accommodations whose possibility of loss is extremely high but for certain important and reasonably specific pending factors that may work to the advantage and strengthening of the asset, its classification as an estimated loss is deferred until a more exact status is determined.

Loss
classification

19. A credit accommodation having the following basic characteristics shall be classified as loss-

- (a) credit accommodation classified as doubtful in the last quarterly review without any significant improvement since then;
- (b) credit accommodation to borrowers whose

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- whereabouts are unknown, or who are insolvent, whose earning power is permanently impaired and the guarantors or co-obligors are insolvent, or that their guarantees are not financially supported; or
- (c) credit accommodation considered as absolutely uncollectible.

Multiple credit accommodations

20. Where a bank or financial institution has granted more than one credit accommodation to a borrower or group of related parties, all such credit accommodations shall be assigned the least favourable classification given to any one of those credit accommodations.

Security consideration

21. The criteria for classifying a credit accommodation shall apply regardless of the type of security held.

Classification of property and assets

- 22.** Property and assets owned or acquired in settlement of loans shall be classified as substandard except the following which shall be classified as loss-
- (a) the excess of the book value of the asset over the fair market value determined by independent professional valuation;
 - (b) the entire book value of an asset or property whose title is being contested in court or is definitely lost to another party;
 - (c) the entire book value of an asset or property which is not saleable;
 - (d) the entire book value of an asset or property which remains unsold for one year or more in the case of personal or movable property, and three years or more, in the case of real property;
 - (e) the entire book value of an asset or property which a bank or financial institution is

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deprived of actual possession or beneficial ownership or over which the bank or financial institution is unable to exercise the usufructuary right; and

- (f) the amount of accrued interest and collection expenses which were capitalized to form part of the value of the asset.

Classification of receivables

23.-(1) All receivables, except accrued interest receivable, shall be classified as follows:

Number of days past due	Classification
31-60	Especially Mentioned
61-90	Substandard
91-180	Doubtful
181 or more	Loss

(2) Sundry debts and other accounts receivable arising from loans shall have the same classification as their respective loan accounts.

Inter-office or inter-branch items

24. Inter-office or inter-branch items, suspense accounts, frauds, shortages, uncleared effects, miscellaneous intangible assets including unlocated differences in nostro and loro accounts, and other assets not specially treated in these Regulations, shall be classified as follows-

Number of days past due	Classification
31-60	Especially mentioned
61-90	Substandard
91-180	Doubtful
181 or more	Loss

Classification of off balance sheet

25.-(1) A bank or financial institution shall, in undertaking review and appraisal of its off balance sheet

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commitments

commitments such as guarantees, indemnities, performance bonds, commercial letters of credit, deferred letters of credit, and other contingent items, observe the same procedure and regulations prescribed for loans.

(2) The off balance sheet items under sub-regulation (1) shall be classified into current, especially mentioned, substandard, doubtful or loss categories.

PART IV PROVISIONING FOR LOSSES

Special non-
distributable
reserve

26.-(1) Notwithstanding International Financial Reporting Standards, a bank or financial institution shall classify credit accommodations and other assets and establish specific provisions not less than those specified in these Regulations.

(2) Where the provisions computed in accordance with International Financial Reporting Standards are less than those required by these Regulations, a special non-distributable reserve shall be created through an appropriation of distributable reserves to eliminate the shortfall.

Minimum
provisions

27.-(1) A bank or financial institution shall maintain specific provisions for all credit accommodations and other risk assets which shall not be less than the following percentages of the outstanding balance consisting of principal, interest and all other charges and fees which have been capitalized-

Classification	Provision rate
Current	one percent
Especially mentioned	three percent
Substandard	twenty percent
Doubtful	fifty percent
Loss	one hundred percent

(2) A bank or financial institution shall establish adequate provisions to cover expected losses where they exceed the provisions established by the minimum percentages in sub-regulation (1).

Additional provisions

28. The Bank may prescribe additional provisions for loan losses in excess of the minimum provisions specified under regulation 27 for the purpose of mitigating any additional risk represented by weak or inadequate internal controls or internal audit.

Valuation of other assets

29. A bank or financial institution shall, in accordance with International Financial Reporting Standards, value all types of assets not specifically mentioned in these Regulations and establish the necessary impairment in value.

Review by Bank

30.(1) The Bank shall periodically review the amount of allowance for probable losses.

(2) Where the amount of the allowance for probable losses established by a bank or financial institution is found to be inadequate, the bank or financial institution shall increase that amount as directed by the Bank and furnish evidence thereof.

PART V GENERAL PROVISIONS

Placing on non-accrual basis

31.(1) A bank or financial institution shall place on a non-accrual basis all credit accommodations which

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are classified as substandard, doubtful or loss.

(2) Any accrued but uncollected interest on credit accommodations placed on non-accrual basis shall be reversed and placed in suspense.

(3) A credit accommodation placed on a non-accrual basis may be restored to an accrual basis provided the borrower has regularized the credit accommodation by timely paying at least four consecutive installments in the case of term loans or upon a satisfactory performance for at least two consecutive quarters in the case of overdraft facilities.

Settlement of credit accommodations

32. In reviewing and classifying credit accommodations, a credit accommodation granted by a bank or financial institution shall not be considered to have been settled if the funds used in settlement are drawn from a credit accommodation granted by the same institution.

Quarterly reports

33. A bank or financial institution shall submit to the Bank on quarterly basis a report on classification and provisioning of credit accommodations and other risk assets including contingent accounts not later than the 15th day following the end of the reporting quarter.

Approval for annual provision

34.-(1) A bank or financial institution shall seek prior approval of the Bank for its proposed annual provisions for probable losses before finalization of the annual accounts.

(2) A bank or financial institution shall submit to the Bank its draft balance sheet, profit and loss account, including a detailed account of the provisions made when seeking approval under sub-regulation (1).

Sanctions

35.-(1) Without prejudice to the penalties and actions prescribed by the Act, the Bank may impose on any bank or financial institution any of the following sanctions for non-compliance-

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- (a) A penalty of the amount to be determined by the Bank;
- (b) prohibition from declaring or paying dividends;
- (c) suspension of the privilege to issue letters of credit or guarantees;
- (d) suspension of access to the credit facilities of the Bank;
- (e) suspension of lending and investment operations;

- (f) suspension of capital expenditure;
- (g) suspension of the privilege to accept new deposits;
- (h) revocation of banking license;
- (i) suspension from office of the defaulting director, officer or employee; and
- (j) disqualification from holding any position or office in any bank or financial institution under the supervision of the Bank.

(2) The penalty referred to in paragraph (a) of sub-regulation (1) shall apply to directors, officers or employees of the bank or financial institution.

Revocation
G. N. 374 of
2008

36. The Banking and Financial Institutions (Management of Risk Assets) Regulations, 2008 are hereby revoked.

Dar Es Salaam,
....., 2014

BENNO J. NDULU
Governor