



EXTRAORDINARY

OFFICIAL GAZETTE

THE BAHAMAS

PUBLISHED BY AUTHORITY

NASSAU

2nd March, 2012

(A)

**BANKS AND TRUST COMPANIES (LARGE EXPOSURES)
(AMENDMENT) REGULATIONS, 2012**

Arrangement of Sections

Section

1.	Citation.....	2
2.	Amendment of Regulation 2 of the principal Regulations.....	2
3.	Repeal and replacement of Regulation 3 of the principal Regulations.....	4
4.	Amendment of Regulation 4 of the principal Regulations.....	5
5.	Amendment of Regulation 5 of the principal Regulations.....	5
6.	Repeal and replacement of Regulation 7 of the principal Regulations.....	5
7.	Amendment of Regulation 8 of the principal Regulations.....	6
8.	Repeal and replacement of Regulation 12 of the principal Regulations.....	7
9.	Repeal and replacement of Regulation 16 of the principal Regulations.....	7

MINISTRY OF FINANCE

S.I. No. 26 of 2012

BANKS AND TRUST COMPANIES REGULATION ACT
(CHAPTER 316)

BANKS AND TRUST COMPANIES (LARGE EXPOSURES)
(AMENDMENT) REGULATIONS, 2012

The Governor of the Central Bank of The Bahamas, in exercise of the powers conferred by section 24 of the Banks and Trust Companies Regulation Act, makes the following regulations —

1. **Citation.**

These Regulations, which amend the Banks and Trust Companies (Large Exposures) Regulations¹, may be cited as the Banks and Trust Companies (Large Exposures) (Amendment) Regulations, 2012.

2. **Amendment of regulation 2 of the principal Regulations.**

Regulation 2 of the principal Regulations is amended by —

- (a) the repeal and replacement of the words “capital base” together with the accompanying definition as follows —

““capital base” means the total of shareholders' funds plus other capital items permitted by the Central Bank and subject to any adjustment or deduction required by the Central Bank and reported in the most recent Statement of Capital Adequacy schedule of the Excel Reporting System or in such form as determined by the Central Bank;”;

- (b) the repeal and replacement of the word “exposure” together with its accompanying definition as follows —

““exposure” means —

- (i) claims on a counterparty including actual claims and potential claims which would arise from the drawing

¹Sub. Leg. Vol.V; Ch. 316-24

- down in full of undrawn advised facilities, whether revocable, irrevocable, conditional or unconditional, which the licensee has committed itself to provide and claims which the licensee has committed itself to purchase or underwrite;
- (ii) contingent liabilities arising in the normal course of business and liabilities that would arise from the drawing down of undrawn advised facilities;
 - (iii) holdings of equity capital, bonds, bills or other financial instruments;
 - (iv) any other assets that constitute a claim on a counterparty by the licensee and which are not included in sub-subparagraphs (i), (ii), or (iii);”;
- (c) the repeal and replacement of the word “licensee” together with its accompanying definition as follows —
- ““licensee” —
- (i) means any bank or trust company which is incorporated in The Bahamas and holds a licence granted under section 4 of the Act; and
 - (ii) does not include nominee trust companies and restricted banks and or trust companies whose operations are limited to conducting business either on behalf of clients who are members of the same family or for specified persons which are named in the licence;”;
- (d) the repeal and replacement of the words “Zone A countries” together with the accompanying definition as follows —
- ““Zone A countries” means any country which is a full member of the Organization for Economic Co-operation and Development together with any country which has concluded lending arrangements with the International Monetary Fund associated with the General Agreement to Borrow but excludes those countries —
- (i) which have rescheduled their external debts during the preceding five years;
 - (ii) whose rating for long-term liabilities in foreign currencies is lower than investment grade; and
 - (iii) which have no rating and whose yield to maturity and remaining duration are not comparable with those of long-term liabilities with an investment grade rating;”;

- (e) the amendment of the definition of the words “related party” by the deletion wherever it appears of the word “above”;
- (f) the deletion of the words “connected party” together with the accompanying definition;
- (g) the insertion in the appropriate alphabetical order of the following words and definitions —

“**control**” means the power, whether arising from ownership, contract, guarantee, agreement, or otherwise, whereby one person can direct the affairs of another;

“**group of connected parties**” means two or more individual counterparties that constitute a single risk and includes —

- (i) any party that, either directly or indirectly, controls the counterparty;
- (ii) any party that is controlled, either directly or indirectly, by any party that controls, either directly or indirectly, the counterparty;
- (iii) a subsidiary or associate company of the counterparty;
- (iv) directors, executive officers, senior staff, and controlling shareholders, of the counterparty; and
- (v) directors, executive officers, senior staff, and controlling shareholders, of any person identified in (i), (ii) and or (iii);

“**Zone A banks**” means banks that are located in Zone A countries;

“**Zone A central banks**” means central banks located in Zone A countries;

“**Zone A central governments**” means central governments located in Zone A countries;

“**Zone B central banks**” means central banks located in Zone B countries;

“**Zone B central governments**” means central governments located in Zone B countries;

“**Zone B countries**” means those countries which are not included in Zone A.”.

3. Repeal and replacement of Regulation 3 of the principal Regulations.

Regulation 3 of the principal Regulations is repealed and replaced as follows —

“3. Single Exposure Limit.

- (1) No licensee shall incur exposures, on an aggregate basis, to any individual counterparty or group of connected parties, which exceed twenty-five percent of the licensee's capital base.
- (2) No licensee shall hold non-capital investments in securities of a single issuer which exceed ten percent of the licensee's capital base."

4. Amendment of Regulation 4 of the principal Regulations.

Regulation 4 of the principal Regulations is amended —

- (a) by the repeal and replacement of paragraph (1) as follows —
“(1) No licensee shall incur exposures to its related parties which in aggregate exceed fifteen percent of the licensee's capital base.”; and
- (b) in paragraph (2) —
 - (i) by the deletion of the word “arms” and the substitution of the word “arm's”; and
 - (ii) by the insertion in sub-paragraph (a) immediately after the semi-colon, of the word “and”.

5. Amendment of Regulation 5 of the principal Regulations.

Regulation 5 of the principle Regulations is amended by the deletion of the word “concessionary” and the substitution of the word “concessive”.

6. Repeal and replacement of Regulation 7 of the principal Regulations.

Regulation 7 of the principal Regulations is repealed and replaced by the following —

“7. Exempt Exposures.

The following exposures shall be exempt from the limits outlined in regulations 3, 4 and 6 —

- (a) exposures to the Government of The Bahamas and non-commercial Bahamian governmental institutions or secured by securities and or guarantees of the Government of The Bahamas;
- (b) exposures to Zone A central banks;
- (c) exposures to Zone A central governments which are rated high grade or higher by two of the major credit rating agencies for foreign currency debt;

- (d) exposures secured by securities and or guarantees from Zone A central governments which are rated high grade or higher by two of the major credit rating agencies for foreign currency debt;
- (e) short-term interbank deposits of not more than six months maturity, booked with Zone A banks; and
- (f) exposures which are fully collateralized throughout their tenure by cash deposits, including certificates of deposit and equivalent instruments issued by the lending bank, held by the lender with the specific right of offset, where the release of the deposit is conditional on the repayment of the related extensions of credit.”.

7. Amendment of Regulation 8 of the principal Regulations.

Regulation 8 of the principal Regulations is amended —

- (a) by re-lettering the existing sub-paragraph (a) as sub-paragraph (b);
- (b) by the insertion of a new sub-paragraph (a) as follows —
 - “(a) exposures to Zone B central governments and central banks which are denominated in the country's local currency and funded by liabilities in the same currency rated high grade or higher by two of the major credit rating agencies for foreign currency debt;”;
- (c) by the repeal and replacement of the existing sub-paragraphs (b), (c), (d) and (e) as follows —
 - “(c) exposures which are supported by a parental guarantee acceptable to the Inspector;
 - (d) underwriting exposures which do not exceed 90 days duration. Any residual holdings of securities, which are held for more than 90 days, shall not be treated as exempt and shall be subject to the limits outlined in regulations 3, 4 and 6;
 - (e) off-balance sheet exposures to banks which are acceptable to the Inspector; and
 - (f) exposures to related parties where the licensee or the related party is fulfilling a treasury role on behalf of the group or managing liquidity across the group and the conditions set by the Inspector have been met.”.

8. Repeal and replacement of Regulation 12 of the principal Regulations.

Regulation 12 of the principal Regulations is repealed and replaced by the following—

“12 Notification of breach.

A licensee shall, on becoming aware of any breach of regulations 3, 4 or 6

- (a) notify the Inspector and provide the particulars of the breach in the manner determined by the Inspector within two working days after breaching the regulations; and
- (b) take immediate action to bring the exposure within the established limits as soon as practicable but no later than ten working days after breaching the limits.”.

9. Repeal and replacement of Regulation 16 of the principal Regulations.

Regulation 16 of the principal Regulations is repealed and replaced by the following—

“16 Penalty for non-compliance.

- (1) Subject to paragraph (2), the Central Bank may impose a fine not exceeding five thousand dollars where a licensee fails to comply with the provisions of any of regulations 3, 4, 6, 11 or 12.
- (2) The Governor may, if he thinks fit, exempt a licensee from the provisions of this regulation.”.

Made this 2nd day of March, 2012.

**Signed
WENDY CRAIGG
Governor of the Central Bank of The Bahamas**

**BANKS AND TRUST COMPANIES (LIQUIDITY RISK
MANAGEMENT) REGULATIONS, 2012**

Arrangement of Sections

Section

1.	Citation.....	2
2.	Interpretation.....	2
3.	Liquidity risk management strategy.....	4
4.	Review of liquidity risk management strategy.....	4
5.	Inspector to receive copy of liquidity risk management strategy.....	4
6.	Licensee to maintain liquidity ratio.....	5
7.	Calculation of liquidity ratio.....	5
8.	Central Bank to monitor liquidity position of licensees.....	5
9.	Provision of Information to the Inspector.....	5
10.	Licensees to enter discussions with the Inspector.....	5
11.	Remedial action.....	6
12.	Liability for non-compliance.....	6
13.	Fines.....	6
14.	Exemption	6

S.I. No. 27 of 2012

**BANKS AND TRUST COMPANIES REGULATION ACT
(CHAPTER 316)**

**BANKS AND TRUST COMPANIES (LIQUIDITY RISK
MANAGEMENT) REGULATIONS, 2012**

The Governor of the Central Bank of The Bahamas, in exercise of the powers conferred by section 24 of the Banks and Trust Companies Regulation Act, makes the following regulations —

1. Citation.

These Regulations may be cited as the Banks and Trust Companies (Liquidity Risk Management) Regulations, 2012.

2. Interpretation.

(1) In these Regulations —

“**Act**” means the Banks and Trust Companies Regulation Act (*Ch. 316*);

“**freely convertible foreign currency**” means any foreign currency which, at the time in question, is in the opinion of the Central Bank freely negotiable and transferable on international exchange markets;

“**licensee**” means any public bank and or trust company which is incorporated in The Bahamas and holds a licence granted under section 4 of the Act;

“**liquid assets**” means —

- (a) cash, including notes and coins held together with precious metal coins, which qualify as legal tender;
- (b) gold and silver bullion and other precious metals;
- (c) market loans, and includes —

- (i) balances with, and loans and advances to, Zone A banks including correspondent or clearing balances and committed facilities with residual maturity up to one hundred and eighty days;
- (ii) money at call and demand balances at Zone A banks held in Bahamian dollars and or freely convertible foreign currency;
- (iii) negotiable paper issued by Zone A banks, including negotiable certificates of deposits, promissory notes and other negotiable paper;
- (iv) bills, including —
 - (A) bills accepted by Zone A banks;
 - (B) public sector bills including Treasury bills and notes and other negotiable paper issued by Zone A country central governments, any other bills guaranteed and or underwritten by Zone A country central governments, or any other bills that constitute an obligation of a Zone A country central government;
- (v) marketable Zone A country central government securities; and
- (vi) any other asset designated for the purposes of these Regulations by the Inspector;

“liquidity” means the ability to fund increases in assets or meet collateral obligations at a reasonable cost as they fall due without incurring unacceptable losses;

“liquidity ratio” means the ratio of the sum of a licensee's liquid assets, in all currencies, expressed as a percentage of the sum of its deposit liabilities in all currencies;

“money at call and demand balances at Zone A banks” means money at call and demand balances placed with Zone A banks less money at call and demand balances received from those banks;

“Zone A bank” means a bank located in The Bahamas or in a Zone A country whose credit rating is investment grade and excludes —

- (a) any bank whose credit rating has been downgraded to lower than investment grade in the preceding twelve months; or
- (b) any bank which has no rating;

“Zone A country” means —

- (a) The Bahamas;

- (b) a country that is a full member of the Organization for Economic Co-operation and Development;
- (c) a country which has concluded special lending arrangements with the International Monetary Fund associated with the General Agreement to Borrow,

and excludes —

- (i) a country which has rescheduled its external debt during the preceding five years;
- (ii) a country whose rating for long-term liabilities in foreign currencies is lower than investment grade, or which has no rating, and whose yield to maturity and remaining duration are not comparable with those of long-term liabilities with an investment grade rating;

“Zone A country central government” means the central government of a Zone A country.

- (2) Words not defined in these Regulations shall, unless the context otherwise requires, have the same meaning ascribed to such words in the Act.

3. Liquidity risk management strategy.

A licensee shall establish and maintain a liquidity risk management strategy appropriate to the nature, scale and complexity of its activities.

4. Review of liquidity risk management strategy.

A licensee shall —

- (a) implement and adhere to its liquidity risk management strategy at all times; and
- (b) review on a regular basis, and at a minimum annually, its liquidity risk management strategy to take account of changing business objectives, strategic direction and the overall risk tolerance of the licensee.

5. Inspector to receive copy of liquidity risk management strategy.

- (1) A licensee shall provide the Inspector with a copy of its liquidity risk management strategy.
- (2) A licensee shall, where any change to a licensee's risk management strategy has been approved by its Board of Directors, notify the Inspector of such change within fourteen days of the Board's approval and provide the Inspector with a copy of the revised risk management strategy.

6. Licensee to maintain liquidity ratio.

- (1) Subject to paragraph (2), a licensee shall maintain a liquidity ratio of not less than twenty per centum.
- (2) Paragraph (1) shall not apply to a licensee which is subject to the provisions of sections 19 and 20 of the Central Bank of The Bahamas Act (*Ch. 351*).

7. Calculation of liquidity ratio.

The Inspector may, for the purpose of calculating the liquidity ratio of a licensee, require by notice in writing to the licensee that the liquidity ratio of the licensee be calculated —

- (a) either on a consolidated or unconsolidated basis; or
- (b) on both a consolidated and unconsolidated basis.

8. Central Bank to monitor liquidity position of licensees.

- (1) The Central Bank shall monitor the liquidity position of each licensee on an ongoing basis to satisfy itself that the liquidity risk is being appropriately managed based on the nature, scale and complexity of the licensee's activities.
- (2) The Central Bank shall, with respect to licensees which are subject to sections 19 and 20 of the Central Bank of The Bahamas Act (*Ch. 351*), monitor the liquidity position of such institutions as a whole, both on and off the balance sheet and across all currencies.

9. Provision of Information to the Inspector.

A licensee shall —

- (a) provide the Inspector with such particulars of its liquidity position in such manner, frequency and form as may be specified by the Inspector;
- (b) inform the Inspector forthwith of any concerns it has about its current or future liquidity position as well as plans to address such concerns.

10. Licensees to enter discussions with the Inspector.

A licensee and the Inspector shall, where the licensee is in breach of paragraph (1) of regulation 6, enter into discussions for the purpose of determining what remedial action is required.

11. Remedial action.

The Inspector may issue a written directive requiring a licensee to take such remedial action as the Inspector deems appropriate to ensure compliance with paragraph (1) of regulation 6.

12. Liability for non-compliance.

A licensee which fails to comply with a directive of the Inspector made under regulation 11 shall be liable to a fine.

13. Fines.

The Central Bank may, where a licensee is in breach of regulations 3, 4, 5(1), 5(2), 6(1), 9, and or 11, impose a fine of up to \$5,000 per breach.

14. Exemption.

The Central Bank may, if it thinks fit, exempt a licensee from the provisions of these Regulations.

Made this 2nd day of March, 2012.

Signed
WENDY CRAIGG
Governor of the Central Bank of The Bahamas