

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT No. 96 of 1996

The Banking and Financial Services Act (Act No. 21 of 1994)

The Banking and Financial Services (Large Loans Exposures) Regulations, 1996

In EXERCISE of the powers contained in sections *seventy-three* and *one hundred and twenty-four* of the Banking and Financial Services Act, 1994, and on the recommendation of the Bank of Zambia, the following Regulations are hereby made:

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|---|----------------|
| 1. These Regulations may be cited as the Banking and Financial Services (Large Loans Exposures) Regulations, 1996. | Title |
| 2. In these Regulations, unless the context otherwise requires-

"common enterprise" means- | Interpretation |
| <ul style="list-style-type: none"> (a) two or more persons constituting a single risk arising from the direct or indirect control of one of those persons over the others; or (b) two or more persons having no relationship of control over one another, but who constitute a single risk as a result of being interconnected to the extent that if one of them experienced financial problems, the other or all of them would, in the opinion of the Bank of Zambia encounter repayment difficulties; | |

"control" in relation to a common enterprise, means a situation where-

- (a) one or more persons acting in concert, directly or indirectly, own, control or have the power to vote twenty-five per centum or more of any class of voting shares of another person;
- (b) one or more persons, acting in concert, control in any manner, the election of a majority of the directors, trustees, or other persons exercising similar functions,

of another person; or

- (c) any circumstances exist which indicate that one or more persons acting in concert, directly or indirectly, exercise a controlling influence over the management, policies or affairs of another person;

"corporate group" means-

- (a) a corporation and all its subsidiaries; or
- (b) a subsidiary of any person which directly or indirectly owns or controls more than fifty per centum of the voting shares of a corporation;

"large loan" means an exposure of a bank or financial institution to any person or common enterprise which equals or exceeds ten per centum of the bank's or financial institution's regulatory capital;

"loans and extension of credit" means-

- (a) any direct or indirect advance of funds to a person or common enterprise-
 - (i) made on the basis of an obligation of that person or common enterprise to repay the funds; or
 - (ii) repayable from specific property pledged by, or on behalf of, a person or common enterprise;
- (b) all credit risk arising from actual claims, potential claims of all kinds and credit substitutes; or
- (c) commitments to extend credit and any commitment to acquire a debt security or other right to payment of a sum of money;

"regulatory capital" means those instruments which comprise the capital resources of a bank or financial institution, and the total of which is used by the Bank of Zambia for compliance by a bank or financial institution with the minimum capital standard and for assessing capital adequacy, and is calculated in accordance with the Second Schedule to the Banking and Financial Services (Capital Adequacy) Regulations.

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3. These Regulations shall apply to all banks and financial institutions licensed under the Act, and which accept deposits, money market instruments or the equivalent of deposits or money market

Application

instruments.

4. A bank or financial institution shall not incur an exposure to any single person in an amount which, in the aggregate, exceeds twenty-five per centum of the bank's or financial institution's regulatory capital. Limit on single exposures
5. Where a loan or an extension of credit has been made to a common enterprise, the total exposure of the bank or financial institution to that group shall be aggregated and considered as a single exposure and shall not exceed, in the aggregate, twenty-five per centum of the bank's or financial institution's regulatory capital. Limit on exposures to a common enterprise
6. Notwithstanding the limits prescribed in regulations 4 and 5, a bank's or financial institution's large loans exposures to persons and common enterprises shall not exceed, in the aggregate, six hundred per centum of the bank's or financial institution's regulatory capital. Limit on the aggregate of large loans exposures
7. (1) There shall be no limits on loans and extensions of credit to the Government. Exceptions, exemptions and other limits
- (2) There shall be a limit of fifty per centum of the bank's or financial institution's regulatory capital on loans and extensions of credit to the following organisations:
- (a) a foreign government, its agencies and instrumentalities; and
 - (b) the International Monetary Fund and the World Bank.
- (3) The limit referred to in sub-regulation (2) shall apply to the aggregate of the loans and extensions of credit to each of the organisations referred to in that sub-regulation.
- (4) In the case of loans, advances and extensions of credit in the inter-bank market-
- (a) there shall be no limit where the inter-bank exposure is fully secured by the Government, including treasury bills and Government bonds with a residual maturity of less than one year.
 - (b) a bank or financial institution may grant another bank or financial institution a loan and an extension of credit on the security of a Government bond with a residual maturity of one year, but not more than five years, for any amount not exceeding seventy-five per

centum of the face value of the pledged securities; and

- (c) there shall be an exposure limit of fifty per centum of a bank's or financial institution's regulatory capital in respect of unsecured exposures.
- (5) The loans, advances or extensions of credit referred to in sub-regulation (4) shall comprise repayment terms which shall not exceed five working days.
- (6) Any treasury bills and Government bonds pledged as security against loans, advances or extensions of credit shall be deducted from the bank's or financial institution's holdings reported to the Bank of Zambia and shall not be counted towards the calculation of the minimum liquidity requirements of the bank.
8. Where a bank or financial institution agrees with one or more other banks or financial institutions to collectively make a loan or extend credit to a person, only that portion of the loan or credit which is actually advanced by the bank or financial institution and representing its pro rata share of the syndicated loan shall be subject to the loan limits prescribed by regulations 4, 5, 6 and 7. Loan syndications
9. The lending limits prescribed by regulations 4, 5, 6 and 7 shall not apply to any portion of a loan, advance or extension of credit that represents accrued or discounted interest, unless such interest has been capitalised or is, in any other manner, converted to principal. Interest or discount on loans
10. The Bank of Zambia shall have the authority-
- (a) to determine whether or not, and if so determined, when a loan, advance or extension of credit made to one person shall be attributed to, or combined with, those of another person;
- (b) to combine the loans, advances or extensions of credit of one or more persons with those of another person when-
- (i) the proceeds of the loans or extensions of credit are used for the direct benefit of the other person;
- (ii) a common enterprise is deemed to exist between the persons. Combining of loans to separate borrowers
11. All large loans, advances and extensions of credit together with any other loans, advances or extensions of credit which, added to an Credit approval

already existing facility equals or exceeds ten per centum of a bank's or financial institution's regulatory capital shall be approved in advance, and in writing, by a majority of the members of the Board of Directors of the bank or financial institution or a special committee consisting of a majority of the members of that Board specially constituted for that purpose.

12. Every bank or financial institution shall-

Submission of reports

- (a) within ten days following its month-end and in the Form prescribed in the Schedule, submit to the Bank of Zambia a monthly report of its large loans; and
- (b) if requested by the Bank of Zambia, submit further detailed information on all or any other credits.

13. (1) Every loan, advance or extension of credit which is outstanding on the coming into force of these Regulations and which would violate these Regulations if the loan, advance or extension of credit was made after that date shall be reported to the Bank of Zambia not later than twenty-one days following the coming into force of these Regulations.

Compliance with limits of these Regulations

(2) Subject to sub-regulation (3), the report referred to in sub-regulation (1) shall set out the details of the loan, advance or extension of credit and a period, not exceeding one year or such other period as may be provided for in the original loan agreement, within which to progressively bring the loan, advance or extension of credit within the limits of these Regulations.

(3) Notwithstanding sub-regulation (2), any renewal of a loan, advance or extension of credit done on or after the effective date of these Regulations shall be made only on such terms as shall bring the renewal of a loan, advance or extension of credit into compliance with the limits of these Regulations.

14. (1) A bank or financial institution which contravenes these Regulations shall be guilty of an offence and liable, for every day during the contravention continues, to a fine assessed by the Bank of Zambia not exceeding six hundred penalty units or, on conviction, to a fine not exceeding the fine prescribed in the Act, and every director, and any person concerned in the management of the bank or financial institution shall be personally liable to the same fine, or upon conviction, to imprisonment for a term not exceeding two years, or both.

Penalty for non compliance

(2) Any director or any person referred to in sub-regulation (1) shall, in addition to the penalties prescribed in that sub-regulation, be liable for removal from office and barred from holding office in the banking and financial sector

SCHEDULE
(Regulation 12)

BANK OF ZAMBIA LARGE LOAN EXPOSURES REGULATIONS

Reporting Bank:

Month ending:

Regulatory Capital (item IV of Regulatory Capital Calculation): K

Name of Borrower	Loans, Advances and Extensions of Credit Authorised K'Millions	As a % of Regulatory Capital	Amount Outstanding K'Millions	As a % of Regulatory Capital	Rate of Interest %	Interest Capitalised Included in Amounts Outstanding K'Millions	Expiry Date of Facility	Security	Status Current\ Non-Current
Total									

LUSAKA
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R. D. S. PENZA
Minister of Finance