STATUTORY INSTRUMENTS
SUPPLEMENT No. 34 **15th October, 2004**

STATUTORY INSTRUMENTS SUPPLEMENT

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STATUTORY INSTRUMENTS.

2004 No. 64.

THE MICRO FINANCE DEPOSIT -TAKING INSTITUTIONS (ASSET QUALITY) REGULATIONS, 2004.

ARRANGEMENT OF REGULATIONS

STATUTORY INSTRUMENTS.

2004 No. 64.

The Micro Finance Deposit-Taking Institutions (Asset Quality) Regulations, 2004.

(Under section 89 (3) (a) of the Micro Finance Deposit-Taking Institutions Act, 2003, Act No 5 of 2003)

IN EXERCISE of the powers conferred on the Central Bank by section 89 (3) *(a)* of the Micro Finance Deposit-Taking Institutions Act, 2003, these Regulations are made this 12th day of May, 2004.

PART I—PRELIMINARY.

1. Citation

These Regulations may be cited as the Micro Finance Deposit-Taking Institutions (Asset Quality) Regulations, 2004.

2. Application

These Regulations apply to all micro finance deposit-taking institutions in Uganda.

3. Interpretation

(1) In these Regulations, unless the context otherwise requires—

"Act" means the Micro Finance Deposit-Taking Institutions Act, 2003;

"chief executive officer" means the managing director of an institution, the general manager or the most senior officer of an institution;

"classification" means the determination of a non-performing credit facility, using either subjective or objective criteria to determine its ultimate collectibility;

"credit facilities" means loans and other facilities by which a customer of the institution has access to funds or financial guarantees, or the incurring by the institution of other liabilities on behalf of a customer;

"Doubtful" refers to a classification of a non-performing credit facility that meets the criteria specified in regulation 9(2)*(d)*;

"general provision" means a loss reserve held against future and presently unidentified losses, and which is freely available to meet losses which subsequently materialise;

"institution" or "MDI" means a micro finance deposit-taking institution;

"interest in suspense" means that the interest on a non-performing credit facility is accrued or capitalized but the offsetting accounting entry is placed in a valuation reserve called "interest in suspense" rather than taken into income;

"Loss" means a classification of a non-performing credit facility that meets the criteria specified in regulation 9(2)*(e)*;

"non-accrual" means that a credit facility has been placed on a cash basis for accounting and financial reporting purposes, and interest earned or due but unpaid is not credited to interest income but instead credited to interest in suspense;

"non-performing" means a credit facility that is past due and is not generating any income and meets the criteria specified in regulation 6(1);

"Normal Credit Risk"(Pass) means a classification of a credit facility that meets the criteria specified in regulation 9(2)*(a)*;

"Portfolio at Risk" means the outstanding principal balance of all loans having an amount overdue as a percentage of outstanding principal portfolio;

"refinance" means providing an amount of loan funds in addition to the original loan amount;

"rescheduled loan" means a loan in which the terms have been extended, or in which the payment schedule has been changed;

"restructured credit facility" means a facility which has been refinanced, rescheduled, rolled over, or otherwise modified because of weaknesses in the borrower's financial position on the non-payment of the debt as arranged;

"specific provision" means a loss reserve held against presently identified losses or potential losses and which is not available to meet losses that subsequently materialise;

"Substandard" means a classification of a non-performing credit facility that meets the criteria specified in regulation 9(2)*(c)*;

"Watch" means a classification of a credit facility that meets the criteria specified in regulation 9(2)*(b)*;

"well-secured" means a credit facility that has sufficient collateral to protect the institution from loss of principal and interest through its timely disposition under a forced liquidation program and such collateral consists of—

(a) enforceable legal documentation;

(b) compulsory savings or loan insurance fund;

(c) the absence of a prior lien on the collateral, which could reduce its value or otherwise prevent the obtaining of clear title (aspects such as lack of a clear market value or any difficulties in actual foreclosure or disposing of collateral negate a well-secured status);

(d) a net realisable market value, which is adequate to cover the amount of principal and interest outstanding, as well as the cost of collection.

(2) Terms and expressions used in these Regulations have the same meaning ascribed to them in the Act.

4. Objectives

The objectives of these Regulations are—

(a) to ensure that institutions are in compliance with capital adequacy requirements by recognising possible impairment arising from provision for bad and doubtful accounts;

(b) to ensure that institutions are quantitatively identifying their non-performing credit facilities in order to help ensure that collection efforts are undertaken;

(c) to ensure that institutions present balance sheets and income statements that properly reflect the financial impact of non-performing credit facilities; and

(d) to promote transparency in the financial market and to ensure that all loan contracts between institutions and their clients are transparent and based on clear information.

5. Purpose

The purpose of these Regulations is—

(a) to ensure that institutions grant loans only after carrying out an objective risk analysis and following the strategies, policies and procedures approved by the board of the institution, in accordance with the Act;

(b) to assist institutions to recognise problem assets using a quantitative definition of non-performing status and the manner in which to treat such assets with regard to accrual of interest, classification, and adequate provisions based on such classification;

(c) to assist institutions to appreciate that the recognition of non-performing assets stimulates collection efforts and thus helps reduce the possibility of loss on these assets;

(d) to emphasise to institutions that supervisory authorities world-wide have recognised that their effectiveness is dependent on the integrity of balance sheets and income statements resulting from proper identification and accounting treatment of non-performing assets; and that failure to set such standards can lead to fictitious profits and misleading balance sheets to the supervisory authority and other interested parties.

PART II—REGULATORY REQUIREMENTS

6. Non-performing credit facilities

(1) A credit facility is considered to be non-performing when—

(a) principal or interest on it is due and unpaid for thirty days or more; or

(b) interest payments equal to thirty days or more have been capitalized, refinanced, renegotiated, restructured or rolled over.

(2) The criteria for assessing non-performing credit facilities apply regardless of what security is held on the facility, but cash or savings and time deposit balance held as security may be deducted from the outstanding balance of the credit facility before determining specific provisions.

7. Reporting of non-performing credit facilities to the Central Bank(1) Every institution shall report, on a monthly basis, to the Central Bank, its non-performing credit facilities in the forms set out in Schedules 1, 2 and 3 to these Regulations.

(2) An institution which fails to report non-performing credit facilities on a timely and accurate basis is liable to the penalties and administrative sanctions prescribed in Part IV of these Regulations.

Income Recognition

8. Non-accrual status

(1) All categories of non-performing credit facilities shall be placed on a non-accrual basis, in which interest due but uncollected should not be accrued to income but is instead shown as interest in suspense.

(2) All interest on non-performing credit facilities previously accrued into income but uncollected is to be reversed and credited into the interest in suspense account until paid in cash by the borrower.

(3) A non-performing credit facility shall be returned to an accrual basis only when all outstanding dues and unpaid obligations have been paid up to date.

Classification and Provisioning

9. Criteria for classification

(1) Credit facilities shall be classified in the following five categories—

(a) Normal Credit Risk (Pass);

(b) Watch (Special Mention);

(c) Substandard;

(d) Doubtful; and

(e) Loss.

(2) Non-performing credit facilities include the Substandard, Doubtful and Loss categories which shall be classified by institutions according to the following criteria—

(a) criteria for a Normal Credit Risk (Pass) is a credit facility, which is up-to-date in payments;

(b) criteria for Watch (Special Mention) is a credit facility in which the principal or interest is due and unpaid for eight days or more but less than thirty days;

(c) criteria for Substandard is a credit facility in which the principal or interest is due and remains unpaid for thirty days or more but less than sixty days.

(d) criteria for Doubtful is

a credit facility in which the principal or interest is due and remains unpaid for sixty days or more but less than ninety days.

(e) criteria for Loss is

a credit facility in which the principal or interest is due and remains unpaid for ninety days or more.

10. Provision on classified credit facilities

(1) Every institution shall establish specific provisions for non-performing credit facilities and the provisions shall be reviewed at least quarterly and a report made to the Central Bank.

(2) General provisions shall be maintained at not less than 1% of the outstanding performing balance of the total credit facility.

(3) All credit facilities classified in the Substandard, Doubtful and Loss categories shall be subject to specific provisions as follows—

(a) 25% of the outstanding balance for a Substandard credit facility;

(b) 50% of the outstanding balance for a Doubtful credit facility; and

(c) 100% of the outstanding balance for a Loss credit facility, which shall be written off the books of the institution within six months of being identified as a loss.

(4) The outstanding balance shall consist of the principal, interest that has been capitalised, and all other charges, fees, and other amounts which have been capitalised to the outstanding balance; and interest in suspense may be deducted from the outstanding balance before determining the provisions.

11. Restructured credit facilities

A restructured credit facility is subject to the following conditions—

(a) the existing financial position of the borrower can service the debt under the new condition;

(b) an account classified as a Doubtful or Loss credit facility shall not be restructured unless an upfront cash payment is made to cover, at the least, unpaid interest, or unless there is an improvement in the collateral taken which will render the restructured account, including unpaid interest, a well-secured account;

(c) a credit facility shall not be restructured more than twice over the life of the original facility;

(d) specific provisions for restructured loans shall be as follows—

(i) 8 days or more but less than 30 days … 5%;

(ii) 30 days or more but less than 60 days 50%;

(iii) 60 days or more but less than 90 days 75%; and

(iv) 90 days or more … … … … 100%.

12. Security with regard to classification and provisioning

(1) All institutions shall elevate the status of security on any credit facility once payment of the principal or interest falls into arrears or is irregular.

(2) An institution shall initiate procedures to realise security once a credit facility is in non-performing status.

PART III—INSPECTIONS BY THE CENTRAL BANK AND EXTERNAL AUDITS.

13. Central Bank examination of quality of loans

(1) The Central Bank may, as authorised by section 56 of the Act, undertake inspections of institutions and the inspections may include reviews to determine if non-performing credit facilities have been accurately reported to the Central Bank and that interest accrual is in compliance with these Regulations.

(2) When reporting of non-performing facilities referred to in subsection (1) is determined to be inaccurate, the Central Bank may call for revisions, by the institution concerned, to such statutory returns to reflect an accurate position.

(3) The Central Bank may impose on an institution, any or all of the remedial measures or administrative sanctions in Part IV of these Regulations with regard to inaccurate or untimely reporting and non-compliance with these Regulations.

(4) The Central bank may request an external auditor to determine whether an institution is reporting accurately and is in compliance with these Regulations.

14. Determination of classification and provisioning

(1) Every institution shall establish an appropriate system for the appraisal of its loan portfolio and control of inherent risks in accordance with these Regulations.

(2) The loan portfolio appraisal system for each institution shall be based on an analysis of relevant and appropriate information in order to identify risks and possible losses.

(3) The chief executive officer and the other officers of the institution are personally responsible for ensuring compliance with these Regulations.

(4) Where, in the course of an inspection, the Central Bank determines that a non-performing credit facility has not been properly classified by the management of an institution, the Central Bank may call for a classification and subsequent provisioning, which, in the judgment of the Central Bank, is within the criteria of these Regulations.

PART IV—REMEDIAL MEASURES AND ADMINISTRATIVE SANCTIONS

15. Remedial measures

(1) Where the Central Bank determines, through an inspection, that an institution is not in compliance with these Regulations, it may exercise any or all of its supervisory enforcement powers under section 56 of the Act.

(2) Where the Central Bank determines that an institution is not in compliance with these Regulations, it may call for adjustments to balance sheets, income statements and the capital adequacy computation returns with regard to non-accrual of interest and adequate provisions as it deems fit.

(3) Where the Central Bank determines, by applying the criteria prescribed by these Regulations, that the institution's condition is unsound, it may take appropriate action as prescribed by section 59 of the Act.

16. Offences and penalties

An institution which fails to submit a report as required by regulation 7(1) commits an offence and is liable, on conviction to—

(a) a fine of two currency points for each of the first five days of delay; and

(b) a fine of four currency points for each day after the first five days of delay.

17. Administrative sanctions

The Central Bank may, in addition to the remedial action referred to in regulation 15(3), impose any or all of the following administrative sanctions on an institution that is not in compliance with these Regulations—

(a) prohibition from declaring and paying dividends;

(b) suspension of the establishment of new branches or expansion into new activities;

(c) suspension of acquisition of fixed assets;

(d) suspension of acceptance of new deposits; and

(e) suspension of lending facilities.

SCHEDULE 1

Regulation 7(1)

FORM MDI 150

BANK OF UGANDA

MONTHLY REPORT OF PORTFOLIO QUALITY RETURNS (PQR) NAME OF MICRO FINANCE DEPOSIT TAKING INSTITUTION:.....…………………………………………………

MONTH ENDING: ....

Current Month PreviousMonth

CLIENT POPULATION

1. Number of new borrowers
2. Number of borrowers existing
3. Total number of borrowers

DEPOSITORS

4. Savings
5. Time

Total

PORTFOLIO STATUS

6. No. of loans disbursed
7. Valueof loans disbursed (Shs. ‘000)
8. No. of loans outstanding
9. Value of outstanding loan portfolio (Shs.’000)
10. Average loan amount
11. Average loan term (in weeks)

SCHEDULE 2

Regulation 7(1)

VIOLATION OF CREDIT LIMITS TO A SINGLE BORROWER OR GROUP OF BORROWERS
(All amounts in thousand Ug.shs.)

Largest individual loans
(exceeding 1% of core capital) Amount (Shs '000s)
percentage of Core Capital

Largest group loans
(Exceeding 5% of core capital) Amount (Shs '000s) percentage of Core Capital

TOTALS

Date:

Title:

Signature:

SCHEDULE 3

Regulation 7(1)

FORM MDI 120

BANK OF UGANDA

MONTHLY SCHEDULE OF PROVISION FOR BAD DEBTS

PART I—MONTHLY SCHEDULE OF PROVISION FOR BAD DEBTS

NAME OF MDI...

MONTH ENDING ....

Note: Complete either or both of the schedules below, depending on the type of provision(s) for bad debts used, as defined. Data in columns should be, from left to right, for the prior financial year; year-to-date in current financial year; and the month just ending (previous) Amounts should be in thousands of Uganda shillings.

PART I—GENERAL PROVISIONS:

A provision established against future and as yet unidentified, losses (Micro Deposit Institutions are encouraged to make at least 1.00% of the performing loans). When subsequently identified, such losses are charged off against the provisions, and any recoveries eventually made on the asset charged off are credited back to the provision.

	Prior Year	*Year-to-date*	*Current Month*
Beginning balance			
Transfers to provisions			
Gross charge-offs (loan losses)			
Recoveries on prior charge-offs			
Other entries (describe)			
Ending balance (to agree with MDI 100)			

SPECIFIC PROVISIONS

A provision is established against a presently identified loan or probable loss. Should the loan improve in status, its provision may be eliminated or reduced. When all efforts or recovery have been exhausted, the balance of the loan should be written off against the specific provision.

	Prior Year	*Year-to-date*	*Current Month*
Beginning balance			
Provisions established in period (gross)			
Reductions due to improved status			
Writeoffs against the Provisions			
Other entries (describe)			
Ending balance (to agree with MDI 100)			

PART II - INTEREST IN SUSPENSE

Prior Year

Year-to-date *Current Month*

End of period balance

PART III - CHARGE OFFS AND RECOVERIES BY SECTOR

Show, in the schedule below, gross amounts charged off and gross recoveries on such charge-offs by sector, for the year-to-date in the current financial year. If general provisions are used, totals must agree to the gross charge-offs and recoveries on prior charge offs in the year-to-date column in the provision for bad debts in General Provisions in Part I of this Schedule. If specific provisions are used, the totals must agree to gross provisions established in the period and reductions due to improved status, again in the year-to-date column of the Specific Provisions in Part I of this Schedule.

Year-to-date for the current financial year (Shs '000's)

Sector	Charge-off	Recoveries
1. Agriculture		
2. Manufacturing		
3. Trade and Commerce		
4. Transport and utilities		
5. Building and Construction		
6. Others		
7. Total		

N.B Totals must agree to applicable amount shown in the General Provisions and Specific Provisions as described in Part I of this Schedule.

PART IV: SUPPLEMENTARY DATA ON NON-PERFORMING ADVANCES (Shs'000)

Sector	Total outstanding	Non-performing as per definition
1. Agriculture		
2. Manufacturing		
3. Trade and Commerce		
4. Transport and utilities		
5. Building and Construction		
6. Others		
7. Total		

N.B. Total must agree with Item No. 7 (Loans in MDI 100)

We have reviewed the above return Micro Deposit Institution120 and we certify that the figures stated therein are in accordance with the Micro Deposit Institutions books and records.

Date: ....

Signature: ....

E. TUMUSIIME-MUTEBILE
Governor, Bank of Uganda.

Enquiries on any aspect of these Regulations should be referred to—

The Executive Director
Supervision Function
Bank of Uganda
P.O. Box 7120
KAMPALA.