STATUTORY INSTRUMENTS
SUPPLEMENT No. 18

27th May, 2005

STATUTORY INSTRUMENTS SUPPLEMENT

to The Uganda Gazette No. 28 Volume XCVIII dated 27th May, 2005

Printed by UPPC, Entebbe, by Order of the Government.

STATUTORY INSTRUMENTS

2005 No. 44.

THE FINANCIAL INSTITUTIONS (LIMITS ON CREDIT CONCENTRATION AND LARGE EXPOSURES) REGULATIONS, 2005.

ARRANGEMENT OF REGULATIONS

Regulation

STATUTORY INSTRUMENTS

2005 No. 44.

The Financial Institutions (Limits on Credit Concentration and Large Exposures) Regulations, 2005.

(Under section 131 (1) of the Financial Institutions Act, 2004 Act No.2 of 2004)

IN EXERCISE of the powers conferred on the Central Bank by section 131 (1) of the Financial Institutions Act, 2004, these Regulations are made this 16th day of February, 2005.

PART I—PRELIMINARY

1. These Regulations may be cited as the Financial Institutions (Limits on Credit Concentration and Large Exposures) Regulations, 2005. Title

2. These Regulations apply to all financial institutions in Uganda. Application

3. In these Regulations, unless the context otherwise requires— Interpretation

"a common interest" shall be deemed to exist between persons for the purposes of these Regulations if—

(a) the exposure to the persons constitutes a single exposure because of the fact that one of them directly or indirectly exercises control over the other, or others;

(b) although the persons to whom the financial institution is exposed are different entities, they are so interconnected that if one of them experiences financial difficulties, another one or all of them are likely to experience lack of liquidity;

(c) the persons are affiliates;

(d) the persons are related persons;

(e) the persons have common control;

(f) the persons are associates;

"Act" means the Financial Institutions Act, 2004;

"adequately secured" means that collateral provided at least fully covers the entire exposure and the lender's legal rights to the collateral is fully protected and there is a margin to cover possible fluctuation if the collateral is in different currency to the exposure;

"concentration" means any advance or credit accommodation to a single borrower or to another financial institution, which represents more than 25% or 50% respectively of the total capital of the financial institution that is extending the credit;

"control" means the relationship between the parent undertaking and a subsidiary undertaking, or similar relations between an individual and an undertaking, or the power to determine the financial and operational policy of a financial institution pursuant to its charter or to an agreement, or direct or indirect influence by a person over decision-making and the management of a financial institution;

"core capital" means permanent shareholders equity in the form of issued and fully paid-up shares plus all disclosed reserves, less goodwill or any intangible assets;

"credit accommodation" includes contractual commitments to lend, letters of credit and guarantees issued on behalf of any person;

"credit facility" refers to any credit accommodation and to any undertaking to pay on account of another person, the purchase, an increase in existing indebtedness, an advance of unearned salary or any other unearned compensation in excess of thirty days or other transaction as a result of which any person becomes obligated to pay money (or its equivalent) to a financial institution, whether the obligation arises directly or indirectly or because of an endorsement on the obligation or otherwise or by any means whatsoever;

"existing concentrations" are concentrations of financial institutions in place at the commencement of the Act;

"exposure" includes loans, advances, overdrafts, holding of papers as well as off balance sheet commitments such as acceptances, guarantees, underwritings, endorsements, placements, documentary credits, performance bonds and other contingent liabilities;

"large exposure" means an exposure, which is equivalent to, or exceeds ten percent of the core capital of a financial institution;

"OECD" refers to the Organisation for Economic Cooperation and Development;

"placement" means a sum of money deposited by one financial institution in another financial institution within or outside Uganda for a specified period outside the normal banking or correspondent banking transactions;

"single borrower" means a single person or persons with a common interest;

"supplementary capital" means general provisions which are held against future and current unidentified losses that are freely available to meet losses which subsequently materialize, and revaluation reserves on banking premises which arise periodically from independent and professional valuation of the premises, and any other form of capital as may be determined from time to time, by the Central Bank;

"total capital" means the sum of core capital and supplementary capital.

Objectives

4. The objectives of these Regulations are—

(a) to encourage risk diversification and curtail excessive concentration of risk exposure of any financial institution to a single borrower or group of borrowers, industry, economic sector, or activity, thereby enhancing the stability of the financial system;

(b) to help ensure that credit is not concentrated amongst a small number of borrowers resulting in denial of credit to smaller entities with viable credit needs;

(c) to ensure that no borrower or related group of borrowers becomes large enough to receive preferential terms with regard to credit standards, interest rates, repayment terms, and value of any collateral or additional loans to protect existing exposures; and

(d) to ensure that losses incurred by any single borrower are not large enough to impair the soundness of a financial institution.

5. The rationale for these Regulations is to point out to financial institutions that— Rationale

(a) excessive exposure to a single borrower or to a group of borrowers with a common interest is a significant risk which, if incurred by one financial institution, can undermine its viability;

(b) the risk of credit concentrations is reduced when credit facilities to borrowers are syndicated or otherwise shared by two or more financial institutions and the credit diversification is encouraged through credit concentration limits;

(c) financial institution failures and or crises in many countries have been attributed, in large part, to excessive concentration of risks where the borrowers have failed to properly service their credit obligations;

(d) setting credit concentration limits prevents excessive risk from developing, and

(e) credit concentration limits have become a widely recognised part of effective bank supervision for developing countries, provided the limits are not arbitrary and reflect the nature of the affected financial sector.

PART II—REGULATORY REQUIREMENTS

6. (1) A financial institution shall not grant or promise to grant to a single person or to persons with a common interest, an advance or credit accommodation which is more than 25% of its total capital. Single borrower's limits

(2) A financial institution may grant an advance or credit facility in excess of 25% but not more than 50% of its total capital if the facility is self-liquidating, and its maturity does not exceed three years and is adequately secured by the following—

(a) Uganda Government or Central Bank securities to be pledged to the financial institution extending the accommodation;

(b) fixed deposits held by the lending financial institution and secured by a lien; and

(c) other qualifying securities such as—

(i) guarantees issued by the World Bank or other similar multilateral lending organisations or OECD countries and other foreign governments as the Central Bank may approve;

(ii) a financial guarantee issued by a reputable and highly rated foreign financial institution acceptable to the Central Bank; and

(iii) a guarantee issued by a parent financial institution where the parent institution is highly rated and is acceptable to the Central Bank.

Limits on loans to financial institutions in Uganda

7. (1) Notwithstanding the single borrower's limit, a financial institution may grant to another financial institution in Uganda an advance or credit facility which is more than 25% of its total capital except that the advance or credit facility-

(a) shall not exceed fifty percent of its total capital;

(b) shall not have a maturity exceeding one year; and

(c) shall immediately be reported in writing to the Central Bank.

(2) Where the advance or credit facility by one financial institution to another financial institution in Uganda exceeds a maturity of one year, it shall be secured in accordance with regulation 6(2).

(3) A financial institution granting any credit facility to, or making any placement with another financial institution in Uganda shall conform with the requirements of section 33(1) of the Act.

Aggregation of credit facilities to persons with a common interest.

8. (1) The Central Bank shall aggregate as a single advance or credit facility, all loans and credit facilities made by a financial institution to one or more persons with a common interest.

(2) Notwithstanding subregulation (1), it is the duty of the concerned financial institution to report to the Central Bank, advances to borrowers with a common interest as a single advance or credit facility.

Limits in aggregate large exposures

9. A financial institution shall not have large exposures which, in the aggregate, exceed eight hundred *percent* of its total capital.

Placements

10. (1) Placements between affiliated financial institutions in Uganda shall not be subject to these Regulations, but shall be considered as insider transactions and shall be subject to section 34 of the Act.

(2) Placements by a financial institution in Uganda with a financial institution outside Uganda shall not be subject to these Regulations, but to the applicable criteria under the prevailing financial institutions' foreign exchange laws and regulations.

Reporting and computation of credit concentrations and large exposures.

11. (1) Every financial institution shall have sound administrative and accounting procedures and adequate internal control mechanisms for the purpose of identifying, recording and monitoring all large exposures and subsequent changes to them, in order to ensure compliance, at a consolidated level (head or main office and branches), with the limits on credit concentration and large exposures.

(2) Every financial institution shall submit to the Central Bank, along with form BS100, a return titled 'Credit Concentration and Large Exposures' to be prepared at the close of business of the quarter-end dates of March, June, September and December, in the form set out in the Schedule.

(3) All credit facilities that are equal to, or in excess of 10% of the total capital shall be reported in the return called for in subregulation (2).

(4) In calculating the percentages called for in the return in sub-regulation (3), the core capital and total capital shall agree with the quarterly capital adequacy computation as at the same reporting date.

Transitional measures

12. (1) Every financial institution which, at the commencement of the Act, had outstanding credit facilities, which contravene the limits on credit concentration and large exposures prescribed by these regulations, shall bring the credit facilities within the prescribed limits within a period of three years from the date of commencement of the Act.

(2) Every financial institution shall submit a compliance plan, detailing its proposed plan for compliance to the Central Bank within ninety days after the commencement of these Regulations.

(3) The compliance plan, if approved by the Central Bank, shall be used to monitor compliance by the concerned financial institution.

PART III—REMEDIAL MEASURES AND ADMINISTRATIVE SANCTIONS

Remedial measures

13. (1) Where the Central Bank determines that a financial institution is not in compliance with the limits on credit concentration or large exposures, it may invoke any or all of the corrective measures specified in Part IX of the Act.

(2) Where, as a result of the exercise of its powers, the Central Bank determines that a financial institution is not in compliance with the limits on credit concentration or large exposures, it may exercise its powers under sections 88 and 89 of the Act.

14. In addition to the remedial measures, prescribed by regulation 13, the Central Bank may impose all or any of the following administrative sanctions on a financial institution that fails to comply with these Regulations— Administrative sanctions

(a) prohibition from declaring or paying dividends;

(b) suspension from the establishment of new branches and expansion into new banking and financial activities;

(c) suspension of access to the Central Bank's credit facilities;

(d) suspension of lending operations;

(e) suspension of opening of letters of credit;

(f) suspension of acceptance of new deposits;

(g) suspension of acquisition of fixed assets;

(h) requirement of the infusion of additional capital; or

(i) prohibition of the payment of bonuses, salary incentives, management fees or other discretionary compensation to directors or officers.

SCHEDULE

REGULATION 11(2)

QUARTERLY REPORT ON CREDIT CONCENTRATION AND LARGE EXPOSURES

Name of Financial Institution ....

For the quarter ending ....

(Amounts to the nearest thousand)

NAME OF BORROWER (Indicate the borrower's name and the names of others with a common interest)	OUTSTANDING AMOUNT (Include all credit facilities equal to 10% of core capital or total capital from the highest to the lowest)			% of capital		Status: Performing or Non-Performing	Collateral	
				Core	Total		Amount	Description
	On Balance Sheet	Off-Balance Sheet	Total					

Certified correct. ....

Name *Signature* *Position* *Date*

E. TUMUSIIME-MUTEBILE,
Governor, Bank of Uganda.