
GOVERNMENT NOTICE

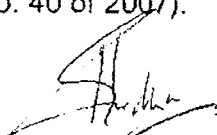
NATIONAL TREASURY

No. R. 712

1 July 2009

CO-OPERATIVE BANKS ACT, 2007: REGULATIONS IN TERMS OF SECTION 86

I, Pravin J Gordhan , Minister of Finance, hereby publish the regulations set out in the Schedule hereto made by me in terms of Section 86 of the Co-operative Banks Act, 2007 (Act No. 40 of 2007).



PRAVIN J GORDHAN
MINISTER OF FINANCE

SCHEDULE
ARRANGEMENT OF REGULATIONS

PART 1
Definitions and interpretation

1. In these regulations “**the Act**” means the Co-operative Banks Act, 2007 (Act No. 40 of 2007), and any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned to it, and—

- (a) “**delinquent loan**” means any loan in respect of which a payment due and payable has not been received in accordance with the terms of a contractual arrangement, and includes –
 - (i) in respect of loans that provide for monthly payments, a loan in respect of which a payment was not received 31 calendar days after the due date for payment;
 - (ii) in respect of loans that provide for daily or weekly payments, a loan in respect of which a payment was not received one day after the due date for payment;
- (b) “**donation**” means any fixed asset or cash received free of any legal claim and irrespective of whether or not a co-operative bank must account for the use of the asset or cash in a specific manner; and “**grant**” has the same meaning;
- (c) “**external borrowing**” includes any monies secured through a loan, excluding members' deposits, for which the co-operative bank has entered into an agreement and must repay the funds with or without interest at a later date, including a loan from the Co-operative Banks Development Agency, a higher tier co-operative bank and any member;
- (d) “**fixed asset**” means moveable and immovable property and includes land, buildings, vehicles, furniture, fixtures and equipment;
- (e) “**membership share**” has the meaning assigned to it in section 1 of the Co-operatives Act;
- (f) “**non-earning assets**” means assets other than fixed assets that earn no yield or interest such as cash, non-interest bearing accounts, members collateral due to repossessions, accounts receivable, prepaid expenses and accruals;
- (g) “**Part**” means the applicable Part of these regulations;

- (h) **“patronage proportion”** has the meaning assigned to it in section 1 of the Co-operatives Act
- (i) **“related person”** means –
 - (i) a person or member who is directly or indirectly controlled by the same person or member; and
 - (ii) a person or member who is so interconnected with another person or member that should one of them experience financial difficulties, one or all of them would be likely to experience a lack of liquidity;
- (j) **“section”** means the applicable section of the Act; and
- (k) **“total assets”** include fixed assets, non-earning assets, assets referred to in regulation 3.2 and loans.

PART 2

Constitution of co-operative bank [Section 13]

2. The constitution of a co-operative bank must provide that a director of a co-operative bank who is in arrears for more than three months with any amount or type of debt payable to the co-operative bank, is disqualified from continuing as a director and must vacate his or her office in accordance with the procedures provided for in the constitution.

PART 3

Banking services provided by co-operative bank [Section 14]

3.1 A co-operative bank may secure external borrowing, the aggregate of which does not exceed 15% percent of the total assets held by that co-operative bank.

3.2 (a) A co-operative bank may acquire or hold the following assets with money deposited with it –

- (i) deposits held with a bank registered in terms of the Banks Act;
- (ii) deposits held with secondary or tertiary co-operative banks of which a co-operative bank is a member;

- (iii) financial co-operative retail savings bonds with 1, 2 or 3 year maturity dates, and treasury bills issued under the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (iv) participatory interests in portfolios of collective investment schemes approved by the Registrar of Collective Schemes and administered by a manager registered under the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002) as determined by the supervisor by notice on its official website;
- (v) bonds and debentures determined by the supervisor by notice on its official website issued by –
 - (aa) national government;
 - (bb) public entities listed under the Public Finance Management Act, (Act No.1 of 1999) ; or
 - (cc) the South African Reserve Bank.

(b) The supervisor may make any determination referred to in paragraph (a)(iv) or (v) subject to conditions.

3.3 (1) A co-operative bank, other than a savings co-operative bank, when granting loans must ensure that –

- (a) all loans granted, including loans referred to in paragraph (b), are approved in accordance with its lending policy;
- (b) all loans granted to employees, officials and directors of the co-operative bank or their direct family members or business associates, as defined in its lending policy, are declared in its annual financial statements in a manner prescribed by the supervisor; and
- (c) in respect of a secondary or tertiary co-operative bank, all loans to other co-operative banks are secured by the cession of an appropriate percentage of the loan books of those co-operative banks to the secondary or tertiary co-operative bank.

(2) (a) A cooperative bank must annually review and, if necessary, amend its lending policy.

(b) A co-operative bank must prior to adopting and implementing any amendments to its lending policy –

- (i) solicit the views and recommendations of the supervisor; and

- (ii) take into account any written views and recommendations on the amendments by the supervisor.

PART 4

Prudential requirements of co-operative bank

[Section 20]

4. (1) A co-operative bank must meet and maintain the following minimum prudential requirements —

	<i>Requirements</i>
(a) minimum capital adequacy ratio	(i) 6 percent of total assets held by co-operative bank.
(b) loan loss provision for delinquent loans	<p>(i) 2 percent in respect of all loans in addition to the minimum capital adequacy ratio; plus</p> <p>(ii) 35 percent in respect of all loans delinquent for a period of 1 month but not longer than 6 months; plus</p> <p>(iii) 50 percent in respect of all loans delinquent for a period of longer than 6 months but not longer than 12 months; plus</p> <p>(iv) 100 percent in respect of all loans delinquent for a period of longer 12 months.</p>
(c) liquidity	<p>(i) a maximum of <u>5 percent of total assets</u> may be held in fixed and non-earning assets</p> <p>(ii) a minimum of <u>10 percent of total deposits</u> must be held in investments referred to in regulation 3.2 with a tenure not exceeding 32 days and convertible into cash at any time, without incurring any penalty or being subject to a discount rate substantially higher than the average rate that applies to liquid assets with a similar term;</p> <p>(iii) a minimum of <u>2.5 percent of total deposits</u> must be deposited with the Agency or a higher tier co-operative bank, in addition to the deposits referred to</p>