

43. Public disclosure

(1) Subject to the provisions of subregulation (3), a bank shall disclose in its annual financial statements and other disclosures to the public, reliable, relevant and timely qualitative and quantitative information that enable users of that information, among other things, to make an accurate assessment of the bank's financial condition, including its capital adequacy position, and financial performance, business activities, risk profile and risk-management practices, provided that-

- (a) the bank shall have in place a formal board approved policy relating to disclosure, which policy, as a minimum-
 - (i) shall specify the approach that the bank adopted in order to determine the materiality, nature and extent of information that will be disclosed to the public;
 - (ii) shall be sufficiently robust to ensure that the bank-
 - (A) establishes and maintains appropriate internal control processes and procedures relating to the qualitative and quantitative information disclosed to the public;
 - (B) assesses on a regular basis the appropriateness of information disclosed to the public;
 - (C) establishes and maintains an appropriate process to validate the information disclosed to the public;
 - (D) regularly assesses the frequency and materiality of information disclosed to the public;
 - (E) is able to continuously determine the extent to which the required information may already be included in the bank's accounting disclosure requirements and to what extent the bank has to disclose information in addition to the bank's accounting disclosure requirements;
- (b) when compliance with the minimum required information specified in subregulation (2) below is not sufficient to provide a true and fair presentation of the bank's financial condition, including its capital-adequacy position, and financial performance, business activities, risk profile and risk-management practices, the bank shall disclose relevant additional information;
- (c) the bank's annual financial statements and other disclosures to the public shall present or disclose each material item separately. Information is material if its omission or misstatement could change or influence the judgement or decision of a user relying on that information to take, amongst other things, economic or investment decisions;

- (d) the minimum required publicly disclosed information, amongst other things, shall be consistent with the manner in which the board of directors and the senior management of the bank assess and manage the bank's risk exposures;
- (e) the bank shall on a regular basis, but not less frequently than-
 - (i) once a year, disclose to the public qualitative information in respect of the bank's risk management objectives and policies, reporting system and general definitions;
 - (ii) on a quarterly basis, disclose to the public quantitative information in respect of-
 - (A) the bank's primary capital, including the bank's primary capital adequacy ratio;
 - (B) the bank's total capital, including the bank's total capital adequacy ratio;
 - (C) the components of capital;
 - (D) the total required amount of capital and reserve funds;
 - (E) any risk exposure or other item that is subject to rapid or material change,
 - (iii) on a semi-annual basis, disclose to the public the qualitative and quantitative information, other than the information referred to in subparagraphs (i) and (ii) above, envisaged in subregulation (2) below,

provided that, in all cases, the bank shall publish material information that are subject to rapid or material change as soon as possible;
- (f) at the discretion of the management of the bank, the bank shall determine appropriate additional mediums and locations to disclose the required information to the public;
- (g) the bank's disclosure to the public in terms of the provisions of this regulation 43-
 - (i) shall be consistent with the bank's audited financial statements;
 - (ii) shall be subject to appropriate internal control and verification;
- (h) when the information required to be disclosed in terms of the provisions of this regulation 43 differs from any prescribed listing requirements or disclosure requirements in terms of Financial Reporting Standards, the bank shall in an appropriate manner explain any material differences between the said disclosure requirements;

- (i) on prior written application by the bank and/or subject to such conditions as may be specified in writing by the Registrar, the requirements of this regulation 43 place no duty on the bank to disclose to the public proprietary or confidential information, that is-
 - (i) information in respect of, for example, products or systems that, if shared with competitors, is likely to render the bank's investment in the said products or systems less valuable or undermine the bank's competitive position; or
 - (ii) information that is provided in terms of a legal agreement, which information is classified as confidential information;
 - (j) except for information that forms part of a bank's audited financial statements as a result of requirements relating to Financial Reporting Standards, unless otherwise specified in writing by the Registrar, the required additional information that has to be disclosed by the bank to the public in terms of the provisions of this regulation 43 may be, but is not required to be, subject to external audit.
- (2) Without derogating from the provisions of subregulation (1), in accordance with the provisions of the framework for the preparation and presentation of financial statements, read with the relevant requirements of Financial Reporting Standards that may be issued from time to time, a bank shall, as a minimum, disclose in its financial statements appropriate qualitative and quantitative information in respect of the broad categories of information specified below:
- (a) Scope of application

A bank shall in respect of the required-

 - (i) qualitative information, disclose to the public-
 - (A) the name(s) of the controlling company/ public company in the group structure to which the requirements of the Regulations also apply;
 - (B) any differences between the manner in which entities are consolidated for accounting and regulatory purposes, with a brief description of the entities within the group-
 - (i) that are fully consolidated;
 - (ii) that are pro-rata consolidated;
 - (iii) that are subject to a deduction approach;
 - (iv) from which surplus capital is recognised as qualifying capital and reserve funds;
 - (v) that are neither consolidated nor deducted, that is, the bank's investment in the entity is risk-weighted,

which entities shall include subsidiaries and significant minority equity investments in entities involved in-

- (aa) securities trading;
 - (bb) insurance;
 - (cc) other financial activities;
 - (dd) commercial activities;
 - (C) sufficiently detailed information in respect of any restrictions or other major impediments on the transfer of funds or qualifying capital within the banking group;
- (ii) quantitative information, disclose to the public-
- (A) in the case of a subsidiary that conducts insurance business, the aggregate amount of surplus capital recognised in the capital and reserve funds of the consolidated banking group, that is, for example, the difference between the amount invested in the insurance entity and the entity's regulatory capital requirement;
 - (B) in the case of a subsidiary in respect of which the invested amount is deducted from capital and reserve funds instead of being consolidated-
 - (i) the aggregate amount relating to capital deficiencies, that is, the amount by which the subsidiary's capital requirement exceeds the invested amount;
 - (ii) the name(s) of the said subsidiaries,provided that any capital deficiency that has been deducted on a group level in addition to the investment in the said subsidiary shall not be included in the aggregate amount relating to a capital deficiency;
 - (C) in the case of an investment in an entity that conducts insurance business, which investment is risk-weighted instead of being deducted from capital and reserve funds or subject to an alternate method of consolidation in accordance with the provisions of regulation 36-
 - (i) the aggregate amount, that is, the book value of the said investment;
 - (ii) the name of the relevant entity;
 - (iii) the country of incorporation or residence;

- (iv) the proportion of ownership interest and, when different, the proportion of voting rights in the said entity;
 - (v) the quantitative impact in respect of qualifying capital and reserve funds as a result of the investment being risk weighted instead of being deducted from capital and reserve funds.
- (b) Financial performance;
- (c) Financial position, including-
 - (i) capital adequacy;

A bank shall in respect of the required-

- (A) qualitative information, disclose to the public sufficiently detailed information in respect of the bank's approach to assess the adequacy of the bank's capital in order to support the bank's current and future activities;
- (B) quantitative information, disclose to the public-
 - (i) the bank's capital requirement in respect of credit risk, including sufficiently detailed information in respect of-
 - (aa) portfolios subject to the standardised or simplified standardised approach, which disclosure shall be made in respect of each relevant credit portfolio;
 - (bb) portfolios subject to the IRB approaches, that is, portfolios subject to the foundation IRB approach and portfolios subject to the advanced IRB approach, which disclosure shall be made in respect of each relevant credit portfolio, including:
 - (i) exposures relating to corporate institutions, including exposures in respect of specialised lending not subject to the standardised risk grades, sovereigns and banks;
 - (ii) residential mortgage exposure;
 - (iii) qualifying revolving retail exposure;
 - (iv) other retail exposure;
 - (cc) the bank's securitisation exposures;

- (ii) the bank's capital requirement in respect of equity exposures subject to the IRB approach, that is-
 - (aa) equity portfolios subject to the market-based approach, including-
 - (i) equity portfolios subject to the simple risk-weight method; and
 - (ii) equities held in the banking book, which equity positions are subject to the internal model approach;
 - (bb) equity portfolios subject to the PD/LGD approach;
 - (iii) in respect of positions held in the bank's trading book, the bank's capital requirement in respect of market risk, with separate disclosure in respect of exposures subject to-
 - (aa) the standardised approach;
 - (bb) the internal models approach;
 - (iv) the bank's capital requirement in respect of operational risk, with separate disclosure in respect of-
 - (aa) the basic indicator approach;
 - (bb) the standardised approach;
 - (cc) the advanced measurement approach;
 - (v) sufficiently detailed information in respect of the bank's total capital adequacy ratio and primary capital adequacy ratio, including the component relating to innovative capital instruments, in respect of-
 - (aa) the controlling company;
 - (bb) significant bank subsidiaries, either based on a stand-alone basis or sub-consolidated basis depending on the required manner of reporting in respect of the said subsidiaries.
- (ii) capital structure;

A bank shall in respect of the required-

- (A) qualitative information, disclose to the public sufficiently detailed information relating to the terms and conditions of all capital instruments issued by the bank, particularly in respect of innovative, complex or hybrid capital instruments;

- (B) quantitative information, disclose to the public the amount relating to-
- (i) primary capital and reserve funds, including information in respect of:
 - (aa) paid-up share capital, including ordinary shares;
 - (bb) reserve funds;
 - (cc) minority interests in the equity of subsidiaries;
 - (dd) other instruments qualifying as primary share capital;
 - (ee) surplus capital from insurance companies, calculated in accordance with the provisions of regulation 36(10);
 - (ff) amounts deducted from primary share capital in respect of expected losses that exceed the eligible provisions of a bank that adopted the IRB approach for the calculation of the bank's exposure to credit risk;
 - (gg) other amounts deducted from primary share capital, including goodwill and investments.
 - (ii) secondary and tertiary capital;
 - (iii) deductions from the bank's secondary capital and reserve funds, and tertiary capital;
 - (iv) qualifying capital and reserve funds.

(iii) liquidity.

- (d) Types of risk to which the bank is exposed;

In respect of each type of risk envisaged in regulation 39(3), that is, for example, credit risk, market risk, operational risk, interest-rate risk in the bank's banking book or currency risk, a bank shall disclose sufficiently detailed information in respect of the bank's risk-management objectives and policies, including information in respect of-

- (i) the bank's strategies and processes;
- (ii) the structure and organisation of the relevant risk management functions;
- (iii) the scope and nature of the bank's risk reporting and/or risk-measurement systems;
- (iv) the bank's policies relating to hedging and/or risk mitigation and the bank's strategies and processes in order to monitor the continued effectiveness of hedges or risk-mitigation instruments.

(e) Nature and extent of risk exposures, including-

(i) credit risk;

A bank shall in the case of-

(A) credit risk exposures, excluding credit risk arising from positions held in equity instruments, disclose to the public the qualitative and quantitative information specified below:

(i) Qualitative information

A bank-

(aa) shall in addition to the information specified in paragraph (d) above, disclose to the public sufficiently detailed information in respect of-

(i) the bank's accounting definitions in respect of past due and impaired exposure;

(ii) the approaches adopted by the bank in respect of credit impairment, including specific and portfolio impairment, and general allowance, as well as relevant information in respect of the statistical methods applied by the bank;

(iii) the bank's credit risk management policy;

(bb) that partially adopted either the foundation IRB or advanced IRB approach shall provide a description of the nature of exposures within each relevant portfolio that are subject to-

(i) the standardised approach;

(ii) the foundation IRB approach;

(iii) the advanced IRB approach,

and by which date the bank expects to adopt a particular IRB approach in respect of all its credit exposures.

(ii) Quantitative information

A bank-

- (aa) shall in respect of its major types of credit exposure disclose to the public sufficiently detailed information relating to-
- (i) the aggregate amount of gross credit exposure after the effect of set-off in accordance with the requirements of Financial Reporting Standards have been taken into consideration but before the effects of credit risk-mitigation techniques such as collateral or netting have been taken into account;
 - (ii) the bank's average amount of gross exposure during the reporting period, which average gross exposure amount shall be calculated on a daily average basis, unless the exposure at the end of a particular reporting period in all material respects represents the average credit exposure amount during the said reporting period in which case the bank need not disclose the said average exposure amount, provided that when the bank is unable to calculate an average exposure amount on a daily average basis the bank shall disclose to the public the basis on which it calculated such average exposure amounts;
 - (iii) the geographical distribution of its credit exposures, which distribution shall be based on the relevant requirements specified in the form BA 210 and in regulation 24;
 - (iv) the distribution of exposures based on industry or counterparty type;
 - (v) the maturity breakdown of the bank's credit portfolio, which maturity breakdown shall be based on the residual contractual maturity of the said exposures;
- (bb) shall in respect of each major industry, counterparty type or geographical area disclose to the public sufficiently detailed information in respect of the aggregate amount relating to -
- (i) impaired loans and past due loans, including an analysis of the ageing of past-due loans;
 - (ii) any credit impairment, including any specific or portfolio impairment;

- (iii) any specific or portfolio impairment raised and amounts written off during the current reporting period,

provided that the bank shall separately disclose the unallocated portion of general allowances, that is, the portion of general allowances not allocated to a specific industry, counterparty or geographical area;

- (cc) shall provide a reconciliation of changes in specific impairment or portfolio impairment, or general allowance, which reconciliations shall include-

- (i) a description of the type of impairment or allowance;
- (ii) the relevant opening balance;
- (iii) amounts written off against the relevant specific impairment or portfolio impairment, or allowance, during the reporting period;
- (iv) amounts transferred to or reversed against the relevant specific impairment or portfolio impairment, or allowance, during the reporting period;
- (v) any other adjustments such as exchange rate differences, business combinations, acquisitions and disposals of subsidiaries, including transfers between the relevant specific impairment or portfolio impairment, or allowances;
- (vi) the relevant closing balance,

provided that the bank shall separately disclose any amounts written off or recoveries that have been recorded directly in the income statement;

- (dd) shall in respect of each relevant credit portfolio disclose to the public the relevant amounts of exposure that are subject to-

- (i) the standardised approach;
- (ii) the foundation IRB approach;
- (iii) the advanced IRB approach.

- (B) portfolios subject to the standardised approach or the standardised risk grades relating to specialised lending in terms of the IRB approach specified in regulation 23(11)(d)(iii), disclose to the public the qualitative and quantitative information specified below:

(i) Qualitative information

A bank shall in the case of credit portfolios subject to the standardised approach or the standardised risk grades relating to specialised lending in terms of the IRB approach specified in regulation 23(11)(d)(iii) disclose to the public sufficiently detailed information in respect of-

- (aa) the names of the external credit assessment institutions or export credit agency used by the bank, and in the case of any changes made by the bank in respect of external credit assessment institutions or export credit agencies, the reasons for such change;
- (bb) the types of exposure for which the bank uses a particular agency;
- (cc) the process followed by the bank to assign publicly issued ratings to comparable assets in the bank's banking book;
- (dd) any mapping of exposures, that is, the alignment between the alphanumeric rating scale of each relevant rating agency used by the bank and the bank's relevant risk categories, unless the bank conducts its mapping of credit exposures in accordance with the mapping procedures specified by the Registrar from time to time;
- (ee) the risk weights associated with a particular rating grade or risk category.

(ii) Quantitative information

A bank shall in the case of-

- (aa) exposure subject to the standardised approach, separately disclose to the public-
 - (i) the outstanding amounts after risk mitigation in respect of rated and unrated exposures relating to each relevant risk category;
 - (ii) any exposure amount that is deducted from the bank's capital and reserve funds;

- (bb) exposures subject to the standardised risk weights in terms of the IRB approach specified in regulation 23(11)(d)(iii) and equity exposures subject to the simple risk weight method, disclose to the public the aggregate outstanding amount in respect of each relevant risk category;
- (C) portfolios subject to one or both of the IRB approaches, that is, the foundation or advanced IRB approach, disclose to the public the qualitative and quantitative information specified below:
 - (I) Qualitative information
 - A bank-
 - (aa) shall disclose to the public relevant information in respect of the approval granted by the Registrar for the bank to apply a particular IRB approach for the measurement of the bank's exposure to credit risk, including relevant details when the Registrar granted approval for a transition period to implement a particular IRB approach;
 - (bb) shall provide sufficiently detailed information, that is, as a minimum, an explanation and review of-
 - (i) the structure of the bank's internal rating systems and the relationship between internal and external ratings;
 - (ii) the use by the bank of internal risk estimates other than for the calculation of the bank's capital requirement in terms of the IRB approach;
 - (iii) the bank's process in order to manage and recognise credit risk mitigation instruments;
 - (iv) the bank's control mechanisms in respect of its rating system, including information relating to matters such as independence, accountability and the review of the rating systems;
 - (cc) shall provide separate descriptions in respect of the bank's internal rating processes relating to-
 - (i) corporate exposure, including exposures to SMEs, specialised lending and purchased corporate receivables, and sovereign and bank exposure;
 - (ii) equity exposure when the bank adopted the PD/LGD approach in respect of equity instruments held in the bank's banking book;

- (iii) residential mortgage exposure;
- (iv) qualifying revolving retail exposure;
- (v) other retail exposure;

which description shall in the case of each portfolio include sufficiently detailed information in respect of-

- (a) the types of exposure included in the portfolio;
 - (b) the definitions, methods and data used to estimate and validate the bank's PD ratios and in the case of portfolios subject to the advanced IRB approach, the LGD ratios and/or EAD amounts, including any assumptions made by the bank in respect of the relevant risk components, provided that the bank is not required to provide a detailed description of the model used by the bank;
 - (c) any approval obtained from the Registrar to deviate from the definition of default specified in regulation 67, including information relating to the broad segments of the portfolio(s) affected by such a deviation(s).
- (ii) Quantitative information relating to the bank's assessment of risk

A bank-

- (aa) shall in respect of each relevant portfolio other than retail exposure specified in sub-item (i)(cc) above, disclose to the public the information specified below, which information shall be provided across a sufficient number of PD grades, including exposures that are in default, to provide a meaningful distribution of risk, provided that the information relating to PD ratios, LGD ratios and EAD amounts shall reflect the effects of eligible risk mitigation instruments and each PD grade shall include the exposure weighted average PD for a particular risk grade.
 - (i) The total outstanding amount, that is, in the case of-
 - (a) corporate, sovereign and bank exposure, the total outstanding amount plus the relevant EAD amount in respect of undrawn commitments;
 - (b) equity exposure, the outstanding amount;

- (ii) In the case of a bank that adopted the advanced IRB approach, the exposure-weighted average LGD ratio, which LGD ratio shall be expressed as a percentage;
 - (iii) The exposure weighted average risk weight.
- (bb) that adopted the advanced IRB approach, shall disclose to the public-
 - (i) the amount in respect of undrawn commitments; and
 - (ii) in respect of each relevant portfolio, the exposure-weighted average EAD amounts,

provided that the bank may provide only one estimate of the EAD amount in respect of a particular portfolio or, when the bank is of the opinion that more detailed disclosure will ensure a better assessment of risk, disclose EAD estimates across a number of EAD categories;

- (cc) shall in the case of each retail portfolio specified in sub-item (i)(cc) above, on a pool basis, either disclose-
 - (i) the information specified in sub-item (ii)(aa) above, that is, the same information relating to PD ratios, LGD ratios and EAD amounts as for non-retail exposure; or
 - (ii) an analysis of outstanding loans and EAD amounts in respect of commitments, against a sufficient number of expected loss risk grades in order to ensure a meaningful distribution of risk.
- (iii) Quantitative information relating to historical results

A bank shall in respect of each relevant portfolio specified in sub-item (i)(cc) above-

- (aa) disclose to the public the amount of actual losses, that is, amounts written off and specific provisions raised, in respect of the period preceding the current financial year, including sufficiently detailed information in respect of-
 - (i) the extent to which the said amounts differed from the bank's past experience;
 - (ii) the factors that impacted on the bank's loss experience during the period preceding the current financial year, that is, did the bank, for example, experience higher than average default rates or higher than average LGD ratios or EAD amounts.

- (bb) provide a comparison between the bank's risk estimates and the actual outcomes over a sufficiently long period to provide a meaningful assessment of the performance of the bank's internal rating processes, provided that a bank that adopted-
 - (i) the foundation IRB approach shall, when appropriate, such as in the case of material differences, further decompose the said information and provide an analysis of PD ratios and reasons for material differences;
 - (ii) the advanced IRB approach shall, when appropriate, such as in the case of material differences, further decompose the said information and provide an analysis of actual PD ratios, LGD ratios and EAD outcomes compared to the bank's estimated risk components, provided that the bank shall provide reasons for any material differences.
- (D) credit risk mitigation in terms of the standardised or IRB approach, excluding any risk mitigation that falls within the ambit of the exemption notice relating to securitisation schemes, disclose to the public sufficiently detailed information in respect of the qualitative and quantitative information specified below:
 - (i) Qualitative information

A bank shall in addition to the information specified in paragraph (d) above, disclose to the public sufficiently detailed information in respect of-

 - (aa) the bank's policies and processes relating to on- and off-balance sheet netting, including the extent to which the bank makes use of on- and off-balance sheet netting when the bank determines its exposure to credit risk;
 - (bb) the bank's policies and processes relating to the valuation and management of collateral, including a description of the main types of collateral accepted by the bank;
 - (cc) the main types of guarantors or credit-derivative counterparties involved in the bank's risk mitigation activities, and the creditworthiness of the said parties;
 - (dd) any risk concentration incurred in respect of the bank's risk mitigation activities.

(ii) Quantitative information

A bank shall in respect of each separately identified credit portfolio in terms of the standardised or foundation IRB approach disclose to the public the bank's total exposure after the effect of any on- or off- balance sheet netting has been taken into consideration, with an indication of exposures protected by way of-

(aa) eligible financial collateral, after the effect of any haircuts has been taken into consideration;

(bb) other eligible IRB collateral, that is, collateral that qualifies as eligible collateral in terms of the IRB approach in addition to eligible financial collateral, after the effect of any haircuts or adjustments to the exposure has been taken into consideration;

(cc) guarantees or credit-derivative instruments.

(E) exposure to counterparty credit risk, disclose to the public sufficiently detailed information in respect of the qualitative and quantitative information specified below:

(i) Qualitative information

In respect of derivative instruments and exposures relating to counterparty credit risk, a bank shall in addition to the information specified in paragraphs (d) and (e)(i)(A) above, disclose to the public sufficiently detailed information relating to-

(aa) the methodology adopted by the bank in order to assign economic capital and credit limits in respect of the bank's exposure to counterparty risk;

(bb) the bank's policies in order to secure collateral and to establish adequate credit reserves;

(cc) the bank's policies with respect to the identification, measurement and control of wrong-way risk exposure;

(dd) the estimated amount of collateral the bank would have to provide in the case of a credit rating downgrade.

(ii) Quantitative information

A bank-

(aa) shall disclose to the public sufficiently detailed information relating to-

- (i) the gross positive fair value of all relevant contracts that expose the bank to counterparty credit risk;
- (ii) any relevant netting benefits;
- (iii) the net amount of current credit exposure;
- (iv) collateral held, including the type of collateral held, such as cash or government securities;
- (v) the net amount of derivative credit exposure, that is, the amount of credit exposure in respect of derivative transactions after the benefits relating to legally enforceable netting agreements and collateral arrangements have been taken into consideration;
- (vi) the notional value of credit derivative hedges;
- (vii) the distribution of current credit exposure, which distribution shall be based on the relevant types of credit exposure, that is, for example, interest rate contracts, FX contracts, equity contracts, credit derivative instruments or commodity contracts.

(bb) shall in respect of the current exposure method, standardized method or internal model method, as the case may be, disclose to the public sufficiently detailed information relating to the relevant exposure amount or EAD, that is, the estimated exposure at default;

(cc) shall, based on the relevant types of credit derivative product, that is, for example, credit default swaps or total return swaps, disclose to the public sufficiently detailed information relating to credit derivative transactions or contracts that expose the bank to counterparty credit risk, including any relevant notional amounts, provided that within the said product type the bank shall distinguish between-

- (i) instruments used as part of the bank's own credit portfolio and instruments used as part of the bank's intermediation activities;

- (ii) protection bought and protection sold.
 - (dd) that obtained the approval of the Registrar to estimate an alpha factor for the measurement of the bank's exposure to counterparty credit risk shall disclose the bank's said estimate of alpha.
- (F) credit risk arising from positions held in equity instruments, disclose to the public the qualitative and quantitative information specified in subparagraph (ii) below.
- (ii) market risk;

A bank-

- (A) that adopted the standardised approach specified in regulation 28(7) for the measurement of the bank's exposure to market risk in respect of positions held in the bank's trading book shall disclose to the public sufficiently detailed information in respect of the qualitative and quantitative information specified below:

- (i) Qualitative information

A bank shall in addition to the qualitative information specified in paragraph (d) above, disclose to the public information relating to the portfolios/instruments that are subject to the standardised approach.

- (ii) Quantitative information

A bank shall disclose to the public sufficiently detailed quantitative information in respect of the bank's capital requirement relating to:

- (aa) interest-rate products, provided that the bank shall separately disclose its relevant required amount of capital and reserve funds related to securitised or resecuritised instruments or positions in accordance with the relevant requirements specified in subparagraph (vi) below;
 - (bb) equity positions;
 - (cc) positions in foreign exchange; and
 - (dd) commodities.

- (B) that adopted the internal models approach specified in regulation 28(8) for the measurement of the bank's exposure to market risk in respect of positions held in the bank's trading book shall disclose to the public sufficiently detailed information in respect of the qualitative and quantitative information specified below:

(i) Qualitative information

A bank-

- (aa) shall in addition to the qualitative information specified in paragraph (d) above, disclose to the public sufficiently detailed information in respect of the portfolios/instruments that are subject to the internal models approach;
- (bb) shall in respect of each relevant portfolio subject to the internal models approach provide a description of-
 - (i) the key characteristics of the model(s) used by the bank;
 - (ii) the stress testing applied by the bank to a particular portfolio;
 - (iii) the approach adopted by the bank in order to backtest or validate the accuracy and consistency of the internal model(s) and modelling processes used by the bank.
- (cc) shall disclose to the public sufficiently detailed information in respect of the (extent of) approval obtained from the Registrar to apply the internal models approach in respect of positions held by the bank in its trading book;
- (dd) shall in respect of the bank's incremental risk capital requirement and its comprehensive risk capital requirement disclose to the public sufficiently detailed information in respect of the methodologies used and the risks measured through the use of the bank's internal models, including-
 - (i) the approach used to determine liquidity horizons;
 - (ii) the methodologies used to achieve a capital assessment that is consistent with the required soundness standard; and
 - (iii) the approaches used in the validation of the models.

(ii) Quantitative information

A bank shall in respect of each relevant portfolio subject to the internal models approach-

- (aa) disclose to the public sufficiently detailed information in respect of the high, mean and low value-at-risk (VaR) amounts of the reporting bank during the relevant reporting period and as at the end of the reporting period;
- (bb) disclose to the public sufficiently detailed information in respect of the high, mean and low stressed value-at-risk (sVaR) amounts of the reporting bank during the relevant reporting period and as at the end of the reporting period;
- (cc) disclose to the public sufficiently detailed information in respect of the high, mean and low amounts of required capital and reserve funds related to incremental risk and comprehensive risk during the relevant reporting period and as at the end of the reporting period;
- (dd) provide a detailed comparison between value-at-risk estimates and actual gains/losses experienced by the bank;
- (ee) provide an analysis of important "outliers" identified during the bank's backtesting process.

- (C) shall in respect of equity positions held in the bank's banking book disclose to the public sufficiently detailed information in respect of the qualitative and quantitative information specified below:

(i) Qualitative information

A bank shall in addition to the qualitative information specified in paragraph (d) above, disclose to the public sufficiently detailed information in respect of the bank's accounting policies, including-

- (aa) the manner in which the bank values and accounts for equity positions held in the banking book, that is, the accounting technique and valuation methodology used by the bank;
- (bb) key assumptions made and practices adopted by the bank, which practices may affect the valuation of the said equity positions, and any significant changes made by the bank in respect of the said practices,

provided that the bank shall differentiate between equity positions in respect of which the bank expects to realise capital gains and equity positions held for other reasons, such as strategic positioning or in order to establish a particular relationship.

(ii) Quantitative information

A bank-

(aa) shall disclose to the public-

- (i) the value at which investments held in the bank's banking book is disclosed in the bank's balance sheet, and the fair value of the said investments, provided that when the share price of listed instruments materially differs from the fair value of the instruments the bank shall provide a comparison between the listed share price and the fair value of the said instruments;
- (ii) the cumulative amount of gains/losses realised by the bank from the sale/liquidation of positions held in the bank's banking book during the current reporting period;
- (iii) the total amount relating to unrealised gains/losses, that is, unrealised gains/losses recognised directly in the bank's balance sheet instead of being recognised in the bank's income statement;
- (iv) the total amount relating to latent revaluation gains/losses, that is, unrealised gains/losses not recognised in either the bank's balance sheet or income statement;
- (v) the extent to which the bank included unrealised gains/losses referred to in items (iii) and (iv) above in primary or secondary capital and reserve funds of the bank;
- (vi) based on the approach adopted by the bank, the bank's capital requirement in respect of the various equity positions held in the bank's banking book;

- (bb) shall distinguish between the various types of instrument held in the bank's banking book, and the nature of the said investments, including the amounts relating to-
 - (i) publicly traded instruments; and
 - (ii) privately traded instruments.
- (iii) liquidity risk;
- (iv) interest-rate risk;

A bank shall in respect of positions held in the bank's banking book-

- (A) in addition to the qualitative information specified in paragraph (d) above, disclose to the public sufficiently detailed qualitative information relating to-
 - (i) the nature of the bank's exposure to interest-rate risk;
 - (ii) key assumptions made by the bank, including assumptions relating to loan prepayments and the behaviour of core deposits, that is, deposits that are not drawn in accordance with the contractual provisions of the deposits and which deposits are regarded as "permanent" funding;
 - (iii) the frequency with which the bank measures its exposure to interest-rate risk.
- (B) disclose to the public, quantitative information in respect of the increase or decrease in earnings, economic value or the relevant measure used by the management of the bank, relating to a standardised upward and downward interest rate shock specified in the form BA330 or in writing by the Registrar, provided that the bank shall break the required information down based on each relevant currency.
- (v) operational risk;

A bank-

- (A) shall in addition to the qualitative information specified in paragraph (d) above, disclose to the public sufficiently detailed information relating to the approach(es) adopted by the bank for the measurement of the bank's exposure to operational risk, provided that a bank that obtained the approval of the Registrar to apply different approaches for the measurement of the bank's exposure to operational risk shall provide sufficiently detailed information in respect of the scope and coverage of the different approaches used by the bank;

(B) that adopted the advanced measurement approach for the measurement of the bank's exposure to operational risk shall provide a sufficiently detailed description of-

- (i) the advanced measurement approach applied by the bank, including a discussion of relevant internal and external factors considered by the bank;
- (ii) insurance obtained by the bank in order to mitigate the bank's exposure to operational risk.

(vi) securitisation or resecuritisation;

A bank that adopted the standardised approach or IRB approach for the measurement of the bank's exposure to risk arising from a traditional or synthetic securitisation scheme or resecuritisation exposure shall disclose to the public the qualitative and quantitative information specified below, provided that, where relevant or specified below or directed in writing by the Registrar, the bank shall separately disclose qualitative and quantitative information related to the securitisation and resecuritisation positions held in the bank's banking book and its trading book.

(A) Qualitative information

A bank-

- (i) shall in addition to the information specified in paragraph (d) above, disclose to the public sufficiently detailed information in respect of-
 - (aa) the bank's objectives in respect of securitisation schemes or resecuritisation exposure, including the extent to which the bank successfully achieves a transfer of credit risk to external entities or persons;
 - (bb) the types of risk assumed or retained by the bank in respect of securitisation or resecuritisation exposure.

For example, when a bank actively participates in the market of the senior tranche of resecuritisation exposures of mezzanine tranches related to securitisations of residential mortgages, the bank shall describe the structure of the relevant resecuritisations, such as senior tranche of mezzanine tranche of residential mortgages, which information shall be provided for the main categories of resecuritisation products in which the bank is active.

- (cc) the nature of other risks inherent in the bank's securitised or resecuritised assets or exposure, such as liquidity risk or reputational risk;
- (dd) the various role(s) played by the bank in respect of a securitisation scheme or resecuritisation exposure, with an indication of the extent of the bank's involvement in each of the said roles played. For example, the role of-
 - (i) an originator;
 - (ii) an investor;
 - (iii) a servicer;
 - (iv) a provider of credit enhancement;
 - (v) a sponsor of an asset-backed commercial paper facility;
 - (vi) a liquidity provider;
 - (vii) a swap provider,
- (ee) the processes in place to monitor changes in the credit and market risk exposures related to or arising from the bank's relevant securitisation or resecuritisation exposures, including how the aforesaid processes differ for resecuritisation exposures.

This includes, for example, how the behaviour of the underlying assets impacts the bank's securitisation exposures.
- (ff) the bank's policy governing the use of credit risk mitigation to mitigate the risks retained through securitisation or resecuritisation exposures;
- (gg) the approach adopted by the bank in respect of its exposures arising from securitisation or resecuritisation activities, including the type of securitisation or resecuritisation exposures to which the said approach applies, that is, whether the bank, for example, adopted the standardised approach, the ratings-based approach, the internal assessment approach or the standard formula approach.

- (ii) shall provide a list of-
 - (aa) the names and types of special-purpose institutions in respect of which the bank acts as a sponsor to securitise third-party exposures, and indicate whether the bank has exposure to the said special-purpose institutions, either on-balance sheet or off-balance sheet;
 - (bb) affiliated entities-
 - (i) that the bank manages or advises; and
 - (ii) that invest either in the securitisation exposures securitised by the bank or in special-purpose institutions in respect of which the bank acts as a sponsor;
- (iii) shall provide summary information in respect of the bank's accounting policies relating to its securitisation or resecuritisation activities, including-
 - (aa) whether the said securitisation or resecuritisation transactions are treated as sales or financing;
 - (bb) information relating to the recognition of gains in respect of sales;
 - (cc) key assumptions made and methods used by the bank when the bank values retained or purchased interests or positions, including any significant changes to the aforesaid, made by the bank since the previous reporting period, and the impact of the said changes, provided that, when relevant, the bank shall duly distinguish between the valuation of securitised exposures and resecuritised exposures;
 - (dd) the manner in which the bank treats exposures that arise from a synthetic securitisation scheme or resecuritisation structure, unless such information is disclosed as part of other accounting policies, such as policies in respect of derivative instruments;
 - (ee) the manner in which the bank values exposures intended to be securitised or resecuritised, such as exposures related to the bank's pipeline or warehouse activities, and whether the said exposures are included in the bank's banking book or trading book;

- (ff) the bank's policies for recognising on-balance-sheet liabilities related to or arising from arrangements, contracts or agreements that could require the bank to provide financial support for securitised or resecuritised assets or exposures.
- (iv) shall disclose the names of external credit assessment institutions used by the bank in respect of securitisation or resecuritisation transactions, and the types of securitisation or resecuritisation exposure for which a particular agency is used;
- (v) shall in relevant cases provide a description of its process related to the internal assessment approach, including-
 - (aa) the structure of the internal assessment process and the relation between internal assessment and external ratings, including the information specified in sub-item (iv) above related to the use of external credit assessment institutions;
 - (bb) the use of the bank's internal assessment approach, other than for the purpose of calculating the bank's required capital and reserve funds relating to securitisation or resecuritisation exposure;
 - (cc) the control mechanisms in place for the internal assessment process, including matters related to independence, accountability and internal assessment process review;
 - (dd) the exposure type to which the internal assessment process is applied, such as, for example, credit cards, mortgage loans and instalment sales and leasing;
 - (ee) the stress factors used for determining credit enhancement levels, which information shall be disclosed by exposure type.

Provided that the bank shall disclose to the public sufficiently detailed explanatory information when significant changes to any of the aforesaid qualitative or quantitative information occurred since the previous reporting period.

(B) Quantitative information

A bank-

- (i) shall in respect of exposures securitised or resecutised, which exposures are held in the bank's banking book and are subject to the exemption notice relating to securitisation schemes, based on the exposure or asset type, that is, for example, exposures relating to credit cards, residential mortgage loans or vehicle finance, disclose to the public-
- (aa) the total outstanding amount in respect of the exposures securitised or resecutised by the bank, provided that the bank-
 - (i) shall duly distinguish between exposures relating to a traditional securitisation scheme and exposures related to a synthetic securitisation scheme;
 - (ii) shall separately disclose the required information related to the securitisation of third-party exposures in respect of which the bank acts only as a sponsor;
- (bb) the aggregate amount in respect of-
 - (i) impaired or past due assets securitised;
 - (ii) losses recognised by the bank during the current reporting period, including, for example, amounts written off or provisions raised for potential loss in respect of exposures that remained on the bank's balance sheet or credit-enhancing interest-only strips, that is, an on-balance sheet asset that is based on the valuation of future cash flows related to margin income, which asset is subordinated, and other residual interests;
 - (iii) exposures retained or purchased, including, for example, commercial paper issued by the relevant special-purpose institution, liquidity facilities, credit enhancement such as interest-only strips, cash collateral accounts and other subordinated instruments;
 - (iv) on-balance-sheet securitisation or resecutisation exposure retained or purchased;
 - (v) off-balance-sheet securitisation or resecutisation exposure;

- (vi) exposures intended to be securitised or resecuritised within the six-month period following the disclosure date;
 - (cc) summary information in respect of securitisation or resecuritisation transactions concluded during the current reporting period, including the relevant aggregate amount of exposures securitised or resecuritised, and any related recognised gains or losses on sale;
- (ii) shall in respect of exposures held in the bank's banking book separately disclose information relating to-
 - (aa) a securitisation or resecuritisation transaction in respect of which the bank acted as an originator but in respect of which the bank did not retain any exposure, provided that the said information shall be reported only in respect of the reporting period during which the securitisation or resecuritisation transaction was concluded;
 - (bb) transactions in respect of which the bank acts only as a sponsor;
- (iii) that adopted the IRB approach for the measurement of the bank's exposure to risk relating to assets or exposures securitised or resecuritised, held in the bank's banking book-
 - (aa) shall in addition to the aggregate amount of exposures retained or purchased disclose to the public the associated IRB capital requirement in respect of the said exposure(s), provided that the bank-
 - (i) shall break the required information down into a meaningful number of risk categories in respect of each relevant approach, that is, for example, the ratings-based approach, internal assessment approach or the standard formula approach;
 - (ii) shall, based on the underlying asset or exposure type, separately disclose information relating to exposures deducted from primary capital and reserve funds and from secondary capital and reserve funds.
 - (bb) based on the underlying asset or exposure type, shall in the case of securitisation or resecuritisation exposures that are subject to an early amortisation mechanism, disclose to the public the aggregate amount relating to-
 - (i) drawn exposures attributed to the seller's and the investors' interests;

- (ii) the capital and reserve funds required to be maintained by the bank in respect of the bank's retained share of the drawn balances and undrawn commitments, that is, the seller's interest;
- (iii) the capital and reserve funds required to be maintained by the bank in respect of the investor's shares of drawn amounts and undrawn commitments.

Provided that the bank shall duly distinguish between assets or exposures securitised and assets or exposures resecuritised.

- (iv) that adopted the standardised approach for the measurement of the bank's exposure to risk relating to assets or exposures securitised or resecuritised, held in the bank's banking book-
 - (aa) shall in addition to the aggregate amount of exposures retained or purchased disclose to the public the associated capital requirement relating to the said exposure(s), provided that the bank-
 - (i) shall break the required information down into a meaningful number of risk categories;
 - (ii) shall, based on the underlying asset or exposure type, separately disclose information relating to exposures deducted from primary capital and reserve funds and from secondary capital and reserve funds.
 - (bb) based on the underlying asset or exposure type, shall in the case of securitisation or resecuritisation exposures that are subject to an early amortisation mechanism, disclose to the public the aggregate amount relating to-
 - (i) drawn exposures attributed to the seller's and the investors' interests;
 - (ii) the capital and reserve funds required to be maintained by the bank in respect of the bank's retained share of the drawn balances and undrawn commitments, that is, the seller's interest;
 - (iii) the capital and reserve funds required to be maintained by the bank in respect of the investor's shares of drawn amounts and undrawn commitments.

Provided that the bank shall duly distinguish between assets or exposures securitised and assets or exposures resecuritised.

- (v) shall in respect of exposures securitised or resecutised, which exposures are held in the bank's trading book and are subject to the exemption notice relating to securitisation schemes, based on the exposure or asset type, that is, for example, exposures relating to credit cards, residential mortgage loans or vehicle finance, disclose to the public-
- (aa) the total outstanding amount in respect of the exposures securitised or resecutised by the bank, provided that the bank-
 - (i) shall duly distinguish between exposures relating to a traditional securitisation scheme and a synthetic securitisation scheme;
 - (ii) shall separately disclose the relevant required information related to the securitisation of third-party exposures in respect of which the bank acts only as a sponsor;
- (bb) the aggregate amount in respect of-
 - (i) exposures securitised or resecutised and in respect of which the bank retained some exposures and which exposures are subject to the relevant requirements specified in regulation 28;
 - (ii) on-balance-sheet securitisation or resecutisation exposure retained or purchased;
 - (iii) off-balance-sheet securitisation or resecutisation exposure;
 - (iv) exposures intended to be securitised or resecutised within the six-month period following the disclosure date.

Provided that in respect of exposures retained or purchased, the bank shall separately disclose the relevant required information in respect of exposures subject to the comprehensive risk measurement approach for specific risk;

- (cc) summary information in respect of securitisation or resecutisation transactions concluded during the current reporting period, including the relevant aggregate amount of exposures securitised or resecutised, and any related recognised gains or losses on sale;

- (vi) shall in respect of securitisation or resecuritisation exposures held in the bank's trading book, which exposures are subject to the comprehensive risk measurement approach, disclose to the public the relevant required amount of capital and reserve funds, broken down into the relevant risk classifications, that is, for example, default risk, migration risk and correlation risk;
- (vii) shall in respect of securitisation or resecuritisation exposures retained or purchased, which exposures are held in the bank's trading book, disclose to the public the relevant aggregate amount of exposures held and the relevant required amount of capital and reserve funds, broken down into a meaningful number of risk categories for each relevant approach, that is, for example, the standardised approach, the ratings-based approach or the standard formula approach;
- (viii) shall in respect of securitisation or resecuritisation exposures held in the bank's trading book, based on the exposure or asset type, separately disclose to the public the relevant aggregate amounts of exposures deducted from primary share capital and reserve funds and from secondary capital and reserve funds;
- (ix) shall in the case of securitisation or resecuritisation exposures held in the bank's trading book, which exposures are subject to an early amortisation mechanism, based on the relevant asset or exposure type, disclose to the public the aggregate amount relating to-
 - (aa) drawn exposures attributed to the seller's and the investors' interests;
 - (bb) the capital and reserve funds required to be maintained by the bank in respect of the bank's retained share of the drawn balances and undrawn commitments, that is, the seller's interest;
 - (cc) the capital and reserve funds required to be maintained by the bank in respect of the investor's shares of drawn amounts and undrawn commitments;
- (x) shall in the case of resecuritisation exposures retained or purchased, irrespective whether the position is held in the bank's banking book or trading book, separately disclose to the public the relevant aggregate amount of-
 - (aa) exposures in respect of which the bank obtained credit protection to mitigate its exposure to risk;
 - (bb) exposures in respect of which the bank did not obtain any credit protection to mitigate its exposure to risk;

- (cc) exposure to guarantors, broken down according to the relevant types of guarantors.

Provided that the bank shall duly distinguish between exposures held in the bank's banking book and its trading book.

- (vii) other material risks to which the bank is exposed;
- (f) To the extent not already covered by the information required to be disclosed in terms of the provisions of paragraphs (a) to (e) above, an overview of the key aspects relating to-
 - (i) the organisational structure relevant to risk management and control, including relevant risk-management strategies, policies and practices;
 - (ii) the methods used to measure and manage risks;
 - (iii) the principal accounting policies and procedures relevant to the interpretation of the bank's risk exposures; and
 - (iv) basic business, management and corporate governance information;
 - (v) the bank's compensation or remuneration policies, processes and procedures, including sufficiently detailed information related to-
 - (A) the decision-making process used to determine the bank's compensation policy;
 - (B) the composition and the mandate of the remuneration committee;
 - (C) the most important design characteristics of the compensation system, including-
 - (i) criteria used for performance measurement and risk adjustment;
 - (ii) the linkage between pay and performance;
 - (iii) relevant matters related to the bank's deferral policy and vesting criteria;
 - (iv) the parameters used for allocating cash versus other forms of compensation;
 - (D) aggregate quantitative information on compensation, which information, as a minimum, shall be in respect of all relevant directors, the chief executive officer, executive officers, employees in charge of the bank's relevant risk management or risk control functions, the internal auditor, the compliance officer, and every other employee whose actions may have a material impact on the bank's exposure to risk, indicating-

- (i) the relevant amounts of remuneration for the financial year, split into fixed and variable compensation, and the number of beneficiaries;
 - (ii) the relevant amounts and form of variable compensation, split into cash, shares and share-linked instruments and other;
 - (iii) the relevant amounts of outstanding deferred compensation, split into vested and unvested;
 - (iv) the relevant amounts of deferred compensation awarded during the financial year, paid out and reduced through performance adjustments;
 - (v) new sign-on and severance payments made and awarded during the financial year, and the number of beneficiaries of such payments;
 - (vi) the manner in which the bank treats insurance entities when the bank calculates its required capital and reserve funds.
- (3) Subject to such conditions as may be specified in writing by the Registrar, when a bank is controlled by-
- (a) a controlling company;
 - (b) another bank; or
 - (c) an institution which has been approved by the Registrar and which conducts business similar to the business of a bank in a country other than the Republic,

the requirements specified in subregulations (1) and (2) shall apply to such controlling company, bank or institution, as the case may be, instead of to such bank that is so controlled, provided that control for the purposes of this subregulation (3) means control as defined in section 42(2) of the Act.

44. Annual financial statements

- (1) Unless deviation is specifically authorised by the Act or the Registrar, the annual financial statements of a bank or controlling company shall be compiled in accordance with Financial Reporting Standards issued from time to time, with additional disclosure when required, provided that in the absence of a specific Financial Reporting Standard and an approved interpretation reference shall be made to the relevant pronouncements of the International Accounting Standards Board.
- (2) When the Act or the Registrar authorises a deviation as envisaged in subregulation (1), the said bank or controlling company shall in writing inform its auditors of such authorisation.
- (3) Annual financial statements in respect of all subsidiary companies of a bank or controlling company shall be held available by such a bank or controlling company for submission to the Registrar when required by the Registrar, and the information reported on the respective BA returns shall *inter alia* reflect such financial statements.

(4) When relevant, interim reports of a bank or controlling company shall be prepared in accordance with relevant Financial Reporting Standards issued from time to time in respect of interim reports, with additional disclosure when required, provided that-

- (a) in the absence of a specific Financial Reporting Standard on interim reports in South Africa and an approved interpretation reference shall be made to the relevant pronouncements of the International Accounting Standards Board;
- (b) the said interim reports shall be submitted to the Registrar as soon as they become available.

45. Consolidated financial statements

(1) A bank or in the case of a group of banks the relevant controlling company shall within 120 days of the end of the financial year of such bank or controlling company, as the case may be, furnish the Registrar with consolidated annual financial statements, as prescribed in subregulations (2) and (3), whether or not such bank or controlling company in the preparation of its annual financial statements avails itself of any exemption granted under section 15A(1) of the Companies Act, 1973, or in terms of any provision contained in the Companies Act, 2008, as amended from time to time.

(2) The consolidated annual financial statements referred to in subregulation (1) shall duly present the state of affairs and the results of operations in respect of the banking business and all other business activities conducted by-

- (a) the reporting bank and all its subsidiaries, or the reporting controlling company and all its subsidiaries, as the case may be;
- (b) when applicable, the following associates of such reporting bank and its subsidiaries or of such reporting controlling company and its subsidiaries, as the case may be:
 - (i) a company or other incorporated business undertaking in respect of the issued share capital of which the reporting bank and its subsidiaries or the reporting controlling company and its subsidiaries jointly hold more than 20 per cent but not more than 50 per cent;
 - (ii) a trust or other unincorporated business undertaking in which the reporting bank and its subsidiaries or the reporting controlling company and its subsidiaries jointly hold an interest of more than 20 per cent, whether as beneficiary or ultimate beneficiary in the case of a trust, or as a partner in the case where such other unincorporated business undertaking is a partnership; and
- (c) associates referred to in paragraph (b), the business activities and financial affairs of which the reporting bank and its subsidiaries or the reporting controlling company and its subsidiaries are able to materially influence.

(3) The consolidated annual financial statements shall be prepared in accordance with Financial Reporting Standards issued from time to time, with additional disclosure when required, provided that in the absence of a specific Financial Reporting Standard in South Africa and an approved interpretation reference shall be made to the relevant pronouncements of the International Accounting Standards Board, and shall reflect rand amounts in units of thousands.

46. Audit reports

(1) The auditor of a bank shall annually, within 120 days of the financial year-end of the reporting bank, in addition to any report that a bank is statutorily required to obtain from the auditor, report on the bank's financial position and the results of its operations, as reflected in the returns specified in subregulation (6) that were submitted to the Registrar as at the financial year-end of the reporting bank.

(2) Notwithstanding the provision of subregulation (1), the auditor shall also report whether, in the auditor's opinion, the information contained-

(a) in the returns at year-end in all material respects-

- (i) reasonably reflects the information of the management accounts;
- (ii) is complete in so far as all relevant information contained in the accounting and other records at the reporting date has been extracted therefrom and recorded in the returns;
- (iii) is accurate in so far as it correctly reflects the information contained in, and extracted from, the accounting and other records at the reporting date;
- (iv) is prepared using the same accounting policies as those applied in the management and statutory accounts; and
- (v) is prepared in accordance with the directives and instructions of the Act and the Regulations.

(b) in the returns other than at year-end in all material respects-

- (i) reasonably reflects the information of the management accounts;
- (ii) is prepared using the same accounting policies as those applied in the management and statutory accounts; and
- (iii) is prepared in accordance with the directives and instructions of the Act and the Regulations.

(3) Notwithstanding the provision of subregulation (2), the auditor shall annually report to the Registrar on any significant weaknesses in the system of internal controls relating to-

- (a) financial regulatory reporting; and
- (b) compliance with the Act and the Regulations,

that came to the auditor's attention while performing the necessary auditing procedures to enable the auditor to furnish the reports required under subregulation (2), within 120 days of the financial year-end of the reporting bank.

(4) Notwithstanding the provisions of subregulations (1), (2) and (3), the auditor shall annually, within 120 days of the financial year-end of the reporting bank, report to the Registrar on any significant weaknesses in the system of internal controls that came to the auditor's attention while performing the necessary auditing procedures as regards the policies, practices and procedures of the bank relating to-

- (a) the granting of loans;
- (b) the making of investments;
- (c) the ongoing management of the loan and investment portfolios; and
- (d) the relevant credit impairments or loan loss provisions and reserves.

(5) In the case of amendments having been effected by a reporting bank to returns submitted by it during the course of the financial year, the auditor shall, when required to do so in terms of a written request addressed by the Registrar to both the reporting bank and the auditor, in writing confirm that the auditor has verified such of the amendments as have been specified by the Registrar in the said written request.

(6) The audit reports contemplated in this regulation 46 shall be rendered in accordance with the wording and practices agreed from time to time between the Registrar, the South African Institute of Chartered Accountants and the Independent Regulatory Board for Auditors, and shall be in respect of the forms BA 100, BA 110, BA 120, BA 125, BA 130, BA 200, BA 210, BA 220, BA 300, BA 310, BA 320, BA 325, BA 330, BA 340, BA 350, BA 400, BA 410, BA 500, BA 600, BA 610 and BA 700 submitted in respect of the reporting bank's and bank controlling company's banking and other relevant operations in the Republic and elsewhere in the world.

(7) Form BA 900 shall be reconcilable with the form BA 100, and the auditor shall within 120 days of the financial year-end of the reporting bank furnish the Registrar with a written report in which it is stated whether or not all forms BA 100 and BA 900 submitted by the reporting bank during the financial year under review were in fact reconcilable with each other.

(8) Notwithstanding the provisions of subregulations (1) to (7) above, the auditor shall annually, within 120 days of the financial year-end of the reporting bank, report to the Registrar whether there were any instances of non-compliance with the requirements specified in regulations 27(6), 42(1)(a) or 42(1)(b) of these Regulations.

(9) For the purposes of the performance of the auditor's duties in terms of this regulation, the auditor-

- (a) shall hold preliminary discussions with the Registrar prior to the commencement of the said audit; and
- (b) shall obtain from the Registrar, free of charge, copies of the relevant returns submitted to the Registrar by the reporting bank or controlling company during the financial year under review.

47. Reportable offences

(1) The Registrar may, after consultation with the Minister, by notice in the *Gazette*, declare a specified activity or event as a reportable offence.

(2) A bank shall report an offence specified in subregulation (3), or specified in the *Gazette*, as contemplated in subregulation (1), in writing to the Registrar within 30 days after the bank became aware of the said reportable offence.

(3) A reportable offence includes-

- (a) a breach of the fiduciary duty of a member of the board of directors, an employee in charge of a risk-management function or an executive officer;
- (b) market abuse or financial fraud within the bank that results in or is likely to result in the bank losing an amount in excess of 1 per cent of its qualifying capital and reserve funds, as reported in item 104 of the form BA 700, at the latest date for which the relevant statement was submitted;
- (c) any act of a member of the board of directors, an employee in charge of a risk-management function or an executive officer that results in or will probably result in the reputation of the bank being adversely affected;
- (d) any act of a member of the board of directors, an employee in charge of a risk-management function or an executive officer that results in or will probably result in the bank contravening the code of conduct or ethical code of any institution of which the bank is a member or with which the bank is associated;
- (e) any money-laundering or financing of terrorism activity in which the bank was involved and which was not identified in a timely manner and reported as required by law, including in terms of the relevant requirements contained in the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), as amended from time to time;
- (f) any reportable irregularity as envisaged in section 45 of the Auditing Profession Act, 2005 (Act 26 of 2005), as amended, which irregularity was brought to the attention of the board of directors and/or senior management of the relevant bank.

48. Internal audit

In order to, amongst other things, evaluate and improve the effectiveness of a bank's risk management, control, capital management and governance processes and/or systems, a bank shall establish an independent and objective internal audit function, which internal audit function-

- (a) shall in no case serve as a substitute for the ultimate responsibility of the bank's board of directors to ensure that the senior management of the bank, amongst other things-
 - (i) establishes and maintains-
 - (A) an adequate and effective system of internal controls, including controls over financial reporting;
 - (B) a sufficiently robust measurement system in order to identify and assess the various risks to which the bank may be exposed;
 - (C) a sufficiently robust system that relates risk exposure to required capital levels;
 - (D) appropriate methods in order to monitor the bank's compliance with laws, regulations, and supervisory and internal policies;
 - (ii) implements appropriate corrective actions in respect of internal control weaknesses identified by the bank's internal or external auditor and subsequently brought to the attention of the bank's board of directors or senior management;
 - (iii) keeps the internal audit department fully informed of new developments, initiatives, products and operational changes in order to ensure that all associated risks are identified at an early stage;
- (b) shall form an integral part of the ongoing monitoring of the bank's system of internal controls, and of the bank's internal capital assessment procedure;
- (c) shall be a permanent function of the bank, provided that-
 - (i) subject to the prior written approval of and such conditions as may be specified in writing by the Registrar, a bank may outsource some of its internal audit services, provided that the bank shall as part of its application to the Registrar, among other things, present its analysis and assessment of the impact that the said outsourcing of internal audit services will have on the bank's overall risk profile and internal control system;
 - (ii) notwithstanding approval that might be obtained from the Registrar for a bank to outsource certain internal audit services, the bank's board of directors and senior management shall remain ultimately responsible for ensuring that the bank's system of internal control and internal audit are adequate, and operate effectively;
- (d) based on-

- (I) the nature and extent of the bank's operations and risk exposure, shall be appropriately structured within the bank's governance structure;
 - (II) the governance structure of the bank, shall report directly to the bank's chief executive officer, board of directors or audit committee;
- (e) shall have sufficient resources and appropriately trained staff, that is-
 - (i) the staff of the internal audit department shall be sufficiently competent to examine all areas in which the bank conducts business;
 - (ii) the bank shall ensure the continued professional competence of internal auditors by way of systematic and relevant training;
 - (iii) all staff members of the internal audit department shall have sufficient up-to-date knowledge of auditing techniques and banking activities;
- (f) shall be functionally independent from the activities audited and the day-to-day internal control processes of the bank, that is, the internal audit function-
 - (i) shall be able to conduct an assignment on its own initiative in respect of any relevant department, establishment or functions of the bank, including the activities of branches and subsidiaries, and outsourced activities;
 - (ii) shall be free to report its findings and appraisals;
 - (iii) shall be free to internally disclose its findings and appraisals;
- (g) shall be able to conduct any assignment with objectivity and impartiality, that is-
 - (i) the internal audit department shall be able to conduct an assignment free from any bias or interference;
 - (ii) staff shall not audit any activity or function they performed within the twelve month period preceding their appointment in the internal audit department and staff assignments shall periodically be rotated;
 - (iii) the internal audit department shall not be involved in the operations of the bank or in selecting or implementing internal control measures that may impair the judgmental independence of the internal auditors;
 - (iv) staff members of internal audit shall conduct their work free from any potential conflict of interest, which potential conflict of interest, for example, may be influenced by matters such as a compensation scheme, that is, the compensation of internal auditors shall be consistent with the objectives and charter of internal audit;

- (h) shall be headed by a senior executive officer of the bank with the authority to communicate directly and freely in respect of any relevant matter, including, for example, decisions made by the management of the bank that may be in conflict with legal or regulatory requirements, and on his/her own initiative,
 - (i) with the members or chairman of the bank's board of directors;
 - (ii) with the members or chairman of the bank's audit committee; or
 - (iii) with the external auditor of the bank, when appropriate.

Provided that whenever the head of the bank's internal audit department ceases to act as such or has been relieved of his/her duties, the bank shall in writing inform the Registrar accordingly.

- (i) shall be subject to independent review, which review, for example, may be conducted by an independent person or committee such as external audit or the bank's audit committee;
- (j) shall conduct its work in terms of a duly documented internal audit charter, which charter-
 - (i) shall enhance the standing and authority of the internal audit function within the bank;
 - (ii) shall duly state-
 - (A) the objectives and scope of the internal audit function;
 - (B) the position of the internal audit department within the bank, including its powers, responsibilities and relations with other control functions within the bank;
 - (C) the accountability of the head of the internal audit department;
 - (D) that the senior management of the bank grants the internal audit department the right of initiative and authorises the department-
 - (i) to have direct access to and communicate with any member of staff;
 - (ii) to examine any activity or entity of the bank;
 - (iii) to access any records, files or data of the bank, including management information and the minutes of any consultative or decision-making body, whenever relevant to the performance of the department's assignment;
 - (E) the terms and conditions according to which the internal audit department may be requested to provide consulting or advisory services or to conduct special tasks;
 - (F) that none of the activities of the bank or entities in which the bank has an interest, including the activities of branches and subsidiaries,

and outsourced activities, are excluded from the scope of investigation of the internal audit department;

- (iii) shall periodically be reviewed by the internal audit department, approved by the senior management of the bank and subsequently confirmed by the board of directors of the bank as part of the board's supervisory role;
- (iv) shall be communicated throughout the bank;
- (k) shall adopt and comply with all relevant generally accepted internal audit standards issued from time to time;
- (l) as a minimum-
 - (i) shall provide an independent assessment of the adequacy of and compliance with the bank's established policies, processes and procedures;
 - (ii) shall examine and evaluate-
 - (A) the adequacy and effectiveness of the bank's internal control systems;
 - (B) the application and effectiveness of the bank's risk management procedures and risk assessment methodologies;
 - (C) the bank's management and financial information systems, including the electronic information system and electronic banking services;
 - (D) the accuracy and reliability of the bank's accounting records and financial reports;
 - (E) the manner and means in terms of which the bank safeguards its assets;
 - (F) the bank's system in terms of which the bank assesses its capital and reserve funds in relation to the bank's risk exposure;
 - (G) the systems and processes established by the bank in order to ensure compliance with any relevant legal and regulatory requirements, codes of conduct and the implementation of policies and procedures;
 - (H) the manner in which assigned responsibilities are fulfilled;
 - (I) the bank's compliance with policies and risk controls;
 - (J) the reliability, integrity, accuracy, completeness and timeliness of financial and management information;

- (K) the continuity and reliability of the electronic information systems;
- (L) the functioning of the staff departments;
- (iii) shall conduct-
 - (A) an appraisal of the economy and efficiency of the bank's operations;
 - (B) appropriate testing of-
 - (i) transactions;
 - (ii) the functioning of specific internal control procedures;
 - (iii) the reliability and timeliness of the bank's regulatory reporting;
 - (C) relevant special investigations from time to time;
- (iv) shall evaluate whether or not the senior management of the bank-
 - (A) developed and maintained sufficiently robust risk management processes and procedures to identify, measure, monitor and control the risks to which the bank is exposed;
 - (B) at least once a year, reports to the board of directors the scope and performance of the bank's internal control system and the bank's capital assessment procedure;
 - (C) maintains an organisational structure that clearly assigns responsibility, authority and reporting relationships, and ensures that delegated responsibilities are effectively carried out;
 - (D) developed and maintains appropriate internal control policies;
 - (E) continuously monitors the adequacy and effectiveness of the internal control system;
- (m) shall have in place a complete and duly authorised audit programme in respect of each relevant audit assignment, which audit programme, as a minimum, shall describe the relevant audit objectives and an outline of the required audit work in order to achieve the stated objectives;
- (n) in order to ensure the senior management of the bank makes informed decisions in a cost-effective manner, may provide advisory services to the senior management of the bank regarding the development or improvement of internal controls, provided that-
 - (i) the said advisory or consulting services shall be ancillary to the basic function and primary responsibilities of internal audit;
 - (ii) subsequently internal audit shall not be precluded from analysing and criticising the internal controls that have been put in place by or at the direction of senior management;

- (iii) the introduction, development or improvement of internal controls shall remain the responsibility of the management of the bank;
- (o) may in the case when the bank established a separate department to control or monitor a specific activity or entity of the bank use the information reported by the relevant control department, provided that the internal audit department shall remain responsible for the examination and evaluation of the adequate functioning of the internal control of the said activity or entity;
- (p) may from time to time provide such additional assurance services as reasonably may be expected by the bank from such a function;
- (q) shall encourage departments or business units within the bank, or entities within the banking group, from time to time to conduct control self-assessments regarding the efficiency and effectiveness of all relevant internal control procedures;
- (r) may from time to time meet with the bank's external auditor in order to-
 - (i) provide information relating to any significant matter that came to the attention of the internal audit department that may affect the work of the external auditor;
 - (ii) obtain information regarding any significant matter that came to the attention of the external auditor that may affect internal audit;
 - (iii) provide input regarding the nature, timing and extent of certain external audit procedures,provided that the external auditor shall solely be responsible for the audit opinion in respect of the bank's financial statements;
- (s) shall provide the bank's external auditor access to any relevant internal audit reports;
- (t) shall duly document-
 - (i) the bank's audit plan;
 - (ii) all audit procedures, examinations and evaluations that formed part of a particular audit assignment;
 - (iii) the purpose and scope of every audit assignment;
 - (iv) all audit findings and recommendations, and the relevant responses received;

- (u) shall have in place a sufficiently robust process in order to follow up-
 - (i) responses that relate to audit findings;
 - (ii) whether or not recommendations made by the internal audit department have been implemented;
 - (iii) whether or not the department's concerns were appropriately addressed.
- (v) shall regularly-
 - (i) report to and advise senior management and the board of directors or audit committee, as the case may be-
 - (A) on the performance of the internal control system;
 - (B) on the achievement of the objectives of the internal audit department;
 - (ii) inform senior management and/or the board of directors or audit committee about the progress made in respect of the audit plan.

49. Compliance function

(1) A bank shall have in place as part of its risk-management framework and governance structure an independent compliance function, which independent compliance function shall ensure that the bank continuously manages its regulatory and supervisory risks, that is, the risk that the bank does not comply with applicable laws and regulations or supervisory requirements.

(2) The compliance function-

- (a) shall be headed by a senior executive officer of the bank with the authority to communicate directly and freely in respect of any relevant matter, including, for example, decisions made by the management of the bank that may be in conflict with legal or regulatory requirements, and on his/her own initiative,
 - (i) with the members or chairman of the bank's board of directors;
 - (ii) with the members or chairman of the bank's audit committee; or
 - (iii) with the external auditor of the bank, when appropriate.
- (b) shall be headed by a compliance officer who shall perform his/her functions with diligence and care and with such a degree of competence as can reasonably be expected from a person responsible for such a function;
- (c) shall have adequate resources and stature in order to ensure that non-compliance with laws and regulations or supervisory requirements by the bank can be duly addressed.

(3) As a minimum, the compliance officer of a bank-

Effectiveness

- (a) shall report directly to and have demonstrable support from the board of directors, the audit committee and the chief executive officer of the bank;
- (b) shall function independently from functions such as internal audit and shall be demonstrably independent;
- (c) shall in a timely manner report non-compliance with laws and regulations or supervisory requirements to the chief executive officer, the board of directors and the audit committee of the bank;
- (d) shall submit a report on the level of compliance with laws and regulations or supervisory requirements by the bank at every meeting of the board of directors or the audit committee of the bank and provide the Registrar with a copy of such a report;
- (e) shall ensure, as far as possible, that no conflict of interest with/between other internal control functions exists;

Monitoring

- (f) shall be responsible for establishing a compliance culture in the bank that contributes to the overall objective of prudent risk management by the bank;
- (g) shall establish a line of communication to line management, in order to monitor continuously compliance with laws and regulations or supervisory requirements by the bank;
- (h) shall require line management to monitor compliance with laws and regulations or supervisory requirements as part of their normal operational duties;
- (i) shall require relevant regulatory requirements to be incorporated into operational procedure manuals;
- (j) shall make recommendations whenever necessary in order to ensure that there is compliance with laws and regulations or supervisory requirements;

Reporting

- (k) shall establish prompt mechanisms for reporting and resolving non-compliance with laws and regulations or supervisory requirements;
- (l) shall ensure that resolutions are signed off;
- (m) shall duly document the compliance officer's findings, including any remedial action, as part of the compliance monitoring programme;

Resources

- (n) shall recruit sufficient staff of the correct quality in order to monitor and test continuously the bank's compliance with laws and regulations or supervisory requirements;
- (o) shall ensure that compliance staff are trained on a continuous basis in order to ensure that they have adequate technical knowledge in order to understand the regulatory framework that applies to the bank, as well as the risks to which the bank is exposed;

Manual

- (p) shall compile and maintain a compliance manual that -
 - (i) duly addresses all material risks to which the bank is exposed;
 - (ii) duly addresses all material objectives and aspects of applicable legislation;
 - (iii) refers to specific legislation, rules and regulations when appropriate;
 - (iv) is readily available to all relevant staff;
 - (v) is reviewed and updated at least once a year.
- (4) The provisions contained in this regulation shall not be construed as derogating from the general provisions contained in the Act that place the primary responsibility of compliance with the provisions of the Act and the Regulations on directors and executive officers.

50. Market abuse and financial fraud

- (1) A bank shall implement and maintain robust structures, policies, processes and procedures to guard against the bank being used for purposes of market abuse and financial fraud, including insider trading, market manipulation, financing of terrorism and money laundering.
- (2) As a minimum, the structures, policies, processes and procedures referred to in subregulation (1) and implemented by the bank shall be adequate-
 - (a) to ensure continued compliance with all relevant legislation;
 - (b) to facilitate co-operation with relevant law-enforcement agencies;
 - (c) to identify customers and, in particular, recognise suspicious customers and transactions;
 - (d) to maintain high ethical standards in all business transactions;
 - (e) to provide adequate training and guidance to relevant staff;
 - (f) to maintain internal records of transactions;
 - (g) to report suspicious customers and transactions;
 - (h) to provide a clear audit trail.

51. Eligible Institutions**(1) An-**

- (a) external credit assessment institution; or
- (b) export credit agency,

that wishes to be recognised as an eligible institution for purposes of these Regulations shall obtain the prior written approval of the Registrar and shall comply with such conditions as may be specified in writing by the Registrar.

(2) The Registrar shall not grant approval as envisaged in subregulation (1) unless, as a minimum-

- (a) the relevant external credit assessment institution complies with the requirements specified below.

- (i) *Objectivity*

The methodology in terms of which an external credit assessment institution assigns credit assessments in respect of a particular market segment-

- (A) shall be well established for such a minimum period as may be specified by the Registrar, which minimum period shall in no case be less than one year;
- (B) shall be rigorous;
- (C) shall be systematic;
- (D) shall be based on a combination of qualitative and quantitative elements;
- (E) shall be subject to appropriate validation, ongoing review and backtesting;
- (F) shall be responsive to changes in financial condition.

(ii) *Independence*

The external credit assessment institution shall be independent in the sense, for example-

- (A) that the institution shall be free from political or economic pressure that may influence a particular rating;
- (B) that the composition of the board of directors or the shareholder structure of the institution to be assessed shall not create any conflict of interest.

(iii) *International access*

Individual assessments issued by the external credit assessment institution shall be available on equivalent terms to both domestic and foreign institutions that may have a legitimate interest in the assessment.

(iv) *Disclosure*

As a minimum, an external credit assessment institution shall publicly disclose-

- (A) the assessment methodologies used by the said external credit assessment institution, including-
 - (i) the definition of default;
 - (ii) the time horizon used in the rating process;
 - (iii) the meaning of each relevant rating;
- (B) the actual default rates experienced in respect of each assessment category;
- (C) the transitions relating to the various assessments, that is, the likelihood of, for example, a AA rating becoming an A rating over time.

(v) *Resources*

An external credit assessment institution shall have sufficient resources-

- (A) to conduct high quality credit assessments, which assessments shall be based on a combination of qualitative and quantitative elements;
- (B) to allow for substantial ongoing contact with personnel at senior and operational levels within the assessed institutions.

(vi) *Credibility*

As a minimum, the credibility of an external credit assessment institution shall be evidenced by-

- (A) the reliance being placed on the institution's external credit assessments by independent parties such as investors or insurers;
- (B) the existence of comprehensive and duly documented internal policies and procedures to prevent the abuse of confidential information.

(b) the relevant export credit agency-

- (i) publishes its risk scores;
- (ii) subscribes to any relevant OECD agreed methodology to assign country risk scores, which methodology currently establishes eight risk score categories associated with minimum export insurance premiums.

CHAPTER IV

APPLICATION PROCEDURES

52. Application forms and certificates of registration

Form BA 001 up to and including form BA 023, prescribed in regulation 53 to these Regulations, shall be used in accordance with the applicable section of the Act and, unless otherwise directed on the form itself or by the Registrar, every application form submitted by an applicant shall include every prescribed item, numbered as indicated on the relevant form.

53. List of forms prescribed in respect of notices, applications, certificates and declarations under these Regulations

Form number	Heading of form	Applicable regulation/ section of Act No. 94 of 1990	Page no.
BA 001	Notice of review	Regulation 54(1)	859
BA 002	Application for authorisation to establish a bank or a branch or registration as a bank or a branch	Section 12(2), 16(2), 18A	860
BA 003	Certificate of registration as a bank	Section 17(4)	864
BA 004	Application for registration as a controlling company	Section 43(1)	865
BA 005	Certificate of registration as a controlling company in respect of a bank	Section 44(4)	867
BA 006	Application for approval of appointment of auditor(s)	Section 61(2)	868
BA 007	Application for permission to acquire shares in a bank/controlling company	Section 37(2)	877
BA 008	Certificate of change of name	Section 56(5)	879
BA 009	Certificate of authorisation to establish a branch	Section 18A	880
BA 010	Certificate of authorisation to establish a representative office	Section 34(2C)	881
BA 020	Statement by individuals who are holding, or are proposing to hold, the office of a director or executive officer of a bank or controlling company	Regulation 42	799
BA 021	Annual licence for a representative office	Section 35	886
BA 022	Annual licence for a bank	Section 35	887
BA 023	Annual licence for a branch	Section 35	888