



BANK OF MAURITIUS

Guideline on Related Party Transactions

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INTRODUCTION

In terms of section 28(2) of the Banking Act 2004, the Bank of Mauritius (hereafter referred to as the "Bank") may determine limits to which a bank or non-bank deposit taking institution may grant credit to a related party and to all related parties. Accordingly, this guideline sets out the limits and other rules governing related party transactions of banks and non-bank deposit taking institutions (referred to as 'financial institutions' for the purpose of this guideline).

Related parties

The concept of related parties used in this guideline is different and distinct from the concept of closely related customers used in the *Guideline on Credit Concentration Risk*. The latter signifies a relationship between customers, which constitutes a common risk to the financial institution in the extension of credit facilities, but such customers are not necessarily related to the financial institution.

Related parties, whether body corporates or natural persons, fall into two main groups:

- (a) those that are related to a financial institution because of ownership interest; and
- (b) those that are related otherwise, such as directors and senior officers who may also have some ownership interest in the financial institution.

Purpose

The Bank, through this guideline, enunciates the basic framework of risk management to be put in place by financial institutions with regard to related party transactions.

Authority

This guideline is issued under the authority of section 50 of the Bank of Mauritius Act 2004 and section 100 of the Banking Act 2004, and in accordance with section 28(4) of the Banking Act 2004.

Scope of application

This guideline applies to all banks and non-bank deposit taking institutions licensed under the Banking Act 2004.

Previous guideline superseded

This guideline supersedes the *Guideline on Related Party Transactions* issued in December 2001.

Effective date

This guideline shall come into effect on 19 January 2009.

Interpretation

1. In this guideline,
 - (a) "credit exposure" has the same meaning as credit exposure/facility in the *Guideline on Credit Concentration Risk*;
 - (b) "independent director" has the same meaning as in the Banking Act 2004;
 - (c) "market terms and conditions" means
 - (i) in respect of a loan or other credit facilities, the terms and conditions are no more favourable than those offered to the public by the financial institution in the ordinary course of business;
 - (ii) in respect of other transactions, the terms and conditions, including those relating to price, rent, or interest rate, that might be reasonably expected to apply to similar transactions in an open market where parties deal at arm's length, acting knowledgeably and willingly; and
 - (iii) the adoption of follow-up and enforcement actions that might be reasonably expected of a prudent person in similar situations;
 - (d) "related party" in relation to a financial institution has the same meaning as in the Banking Act 2004;
 - (e) "senior officer" of a financial institution has the same meaning as in the Banking Act 2004;
 - (f) "significant interest" has the same meaning as in the Banking Act 2004;
 - (g) "subsidiary" has the same meaning as in the Companies Act 2001; and
 - (h) "tier 1 capital" has the same meaning as in the Guideline on Scope of Application of Basel III and Eligible Capital.

Structure of the guideline

The guideline is made up of five sections:

- | | | |
|-------------|---|---|
| Section I | - | Board and Senior Management Responsibilities; |
| Section II | - | Rules Governing Related Party Transactions; |
| Section III | - | Monitoring of Related Party Transactions; |

- Section IV - Disclosure and Regulatory Reporting; and
- Section V - Transitional Provision.

SECTION I - BOARD AND SENIOR MANAGEMENT RESPONSIBILITIES

2. The board of directors of a financial institution shall establish a policy on related party transactions. The policy shall set out prudent rules and internal limits for granting credit to related parties.
3. A financial institution shall also develop prudent rules and limits for all credit exposures, including those representing less than 2 per cent of its Tier 1 capital.
4. The board of directors shall establish procedures to ensure that board members with conflict of interest are excluded from the approval process of related party transactions.
5. The board of directors shall ensure that the financial institution has a robust system of checks and balances to monitor compliance with the regulatory limits, uphold impartiality and prevent credit activities of any kind which override established credit approval policies and procedures when granting credit facilities to related parties.
6. The board of directors shall appoint a Conduct Review Committee or such committee by whatever name it may be called, from its membership to review and approve related party transactions.
7. The board of directors shall have an oversight on the activities of the Conduct Review Committee.
8. Write-offs of related party credit exposures shall be subject to the prior approval of the board of directors.

Conduct Review Committee

9. The Conduct Review Committee shall consist of at least three independent directors or, in the case of a subsidiary or associate of a foreign banking group, non-executive directors.
10. In the case of a branch of a foreign bank, the chief executive officer of the branch shall constitute a committee at a senior level, which is competent to fulfil the mandate of the Conduct Review Committee in an independent manner.
11. The Conduct Review Committee shall have the mandate to:
 - (a) require management of the financial institution to establish policies and procedures to comply with the requirements of this guideline;
 - (b) review the policies and procedures periodically to ensure their continuing adequacy and enforcement, in the best interests of the financial institution;

- (c) review and approve each credit exposure to related parties;
- (d) ensure that market terms and conditions are applied to all related party transactions;
- (e) review the practices of the financial institution to ensure that any transaction with related parties that may have a material effect on the stability and solvency of the financial institution is identified and dealt with in a timely manner;
- (f) report periodically and in any case not less frequently than on a quarterly basis to the board of directors on matters reviewed by it, including exceptions to policies, processes and limits.

SECTION II - RULES GOVERNING RELATED PARTY TRANSACTIONS

12. Paragraphs 15 to 17 define the categories of exposures that would be considered as related party exposures.
13. As a general rule, related party transactions include the following:
 - (a) credit, financial leasing, non-fund based commitments such as documentary credits, guarantees on behalf of a related party, acquiring a loan made by a third party to a related party;
 - (b) placements made by the financial institution with the related party;
 - (c) conditional sales agreements;
 - (d) consulting or professional service contracts with directors;
 - (e) investment in equity of a related party;
 - (f) deposits placed with the financial institution by related parties; and
 - (g) acquisition, sale or lease of assets.
14. All transactions with related parties must be carried out on terms and conditions that are at least as favourable to the financial institution as market terms and conditions.

Regulatory limits on credit exposures to related parties

For the purpose of determining the regulatory limits on exposures to related parties, the latter are classified into the following three categories:

Category 1

15. This includes credit exposures to
- (a) a person who has significant interest in the financial institution;
 - (b) a director of the financial institution;
 - (c) a director of a body corporate that controls¹ the financial institution;
 - (d) the spouse, child and parent of a natural person covered in (a) or (b) or (c) above;
 - (e) any entity that is controlled² by a person described in (a) or (b) or (c) or (d) above; and
 - (f) any entity in which the financial institution has significant interest, excluding a subsidiary of the financial institution as mentioned in 16(e).

Category 2

16. This includes credit exposures to
- (a) senior officers, which are outside the terms and conditions of employment contracts;
 - (b) the spouse, child and parent of senior officers;
 - (c) senior officers of a body corporate that controls³ the financial institution;
 - (d) any entity that is controlled⁴ by a person described in (a) or (b) or (c) above; and
 - (e) a subsidiary of the financial institution with no shareholder (natural person) holding directly or indirectly more than a significant shareholding in the parent financial institution.

Category 3

17. This includes credit exposures to senior officers, which are within the terms and conditions of employment contracts.

^{1,3} For this purpose, 'control' has the same meaning as in the Companies Act 2001.

^{2,4} For this purpose, a natural person shall be deemed to control an entity if he/she owns, directly or indirectly, 10 per cent or more of the capital or voting rights of that entity. In other cases, it has the same meaning as in the Companies Act 2001.

Regulatory limits

18. Credit exposure to any single borrower/group of closely-related customers who are related parties to the financial institution shall be governed by the *Guideline on Credit Concentration Risk*, subject to the following conditions:
 - (a) the aggregate of credit exposures to and investments in equity shares of all related parties in Category 1, other than investments in subsidiaries and associates, should not exceed 60 per cent of the financial institution's Tier 1 capital;
 - (b) the aggregate of credit exposures to and investments in equity shares of all related parties in Category 1 and Category 2, other than investments in subsidiaries and associates, should not exceed 150 per cent of the financial institution's Tier 1 capital.
19. The Bank may consider requests for the grant of facilities to related parties, which would cause the credit exposure of a financial institution to exceed the regulatory limits. Such requests shall be entertained by the Bank on the express condition that the additional credit exposure shall be deducted from the financial institution's Tier 1 capital. The Bank may also impose other conditions thereto.
20. The treatment of lending of a capital nature by banks to their subsidiaries and associates shall be in accordance with the *Guideline on Scope of Application of Basel III and Eligible Capital*. Consequently, such exposures shall be excluded from the regulatory limits.

Exemptions from regulatory limits

21. A financial institution shall be exempted from the regulatory limits on the following credit exposures:
 - (a) a credit exposure to the extent to which it is collateralised by deposits with the financial institution or Government of Mauritius securities or a loan to the extent to which it is guaranteed by the Government of Mauritius;
 - (b) a credit exposure to the extent to which it is collateralised by securities issued by another government or a loan to the extent to which it is guaranteed by another government provided that the exposure is
 - (i) denominated and funded in its national currency, and
 - (ii) approved by the Bank under paragraph 4 of the *Guideline on Standardised Approach to Credit Risk* for a zero per cent risk weight;
 - (c) a credit exposure to parastatal bodies and to an entity in which Government has more than 50 per cent shareholding;
 - (d) inter-bank transactions as part of treasury operations;

- (e) credit exposures, including aggregate credit exposures to a group of closely related customers as defined at Annex II to the Guideline on Credit Concentration Risk, representing less than 2 per cent of the financial institution's Tier 1 capital, and
- (f) category 3 type of related party exposures.

SECTION III - MONITORING OF RELATED PARTY TRANSACTIONS

- 22. A financial institution shall have adequate information systems to monitor its related party credit exposures and identify exceptions. The financial institution should keep a list of related parties, which should be updated regularly.
- 23. Internal audit shall conduct regular reviews to check whether established policies, limits and procedures in relation to related party transactions are strictly adhered to.

Disclosure of interest⁵

- 24. A financial institution shall ensure that disclosures of interest are made in accordance with the provisions of section 48 of the Banking Act 2004.
- 24A. Where a financial institution is not certain about the status or relationship between its customer/borrower regarding the related party issues (when dealing with related parties other than directors and senior officers), it may request the customer/borrower to submit necessary written information to ascertain the related party status.

SECTION IV - DISCLOSURE AND REGULATORY REPORTING

- 25. A financial institution shall disclose its related party transactions in accordance with the requirements of the *Guideline on Public Disclosure of Information*.
- 26. A financial institution shall report to the Bank on a quarterly basis all information relating to credit exposures to related parties including exemptions from the regulatory limits on credit exposures detailed under paragraph 21, in accordance with the format provided in Annexure I and Annexure II.

SECTION V - TRANSITIONAL PROVISION

- 27. A financial institution which, at the coming into effect of this guideline, does not comply with the regulatory limits applicable to related party transactions, shall within three months of the coming into effect of this guideline, submit a plan showing the manner in which it shall achieve compliance.

⁵ Amended in September 2012.

The plan should, *inter alia*, comprise the following:

- (a) a reduction in the credit exposures that have been extended, by way of normal repayments or specific accelerated repayments; and/or
- (b) an increase in Tier 1 capital, by way of internal accruals or injection of additional funds; and
- (c) the time frame within which it proposes to become fully compliant with this guideline which shall not, in any event, exceed two years as from the date of this guideline.

The plan shall have to be approved by the Bank.

- 28. As from the effective date of this guideline, a financial institution shall not be allowed to take additional credit exposures which may cause it to exceed the regulatory limits stipulated in this guideline.
- 29. In cases where a financial institution has, with the approval of the Bank, been allowed to take exposures, which are above the limits specified in this guideline and maturing after the effective date of this guideline, the financial institution will be permitted to maintain these exposures until maturity even if it goes beyond the period of two years.

Bank of Mauritius

Annexure I

Non-Exempted Related party Transactions

Statement of Related Party Transactions as at _____													
Name of institution: _____													
Tier 1 capital as at _____ (in MUR 000 or USD 000)													
Name of related party	Relationship with reporting institution	Purpose of transaction	Date of approval	Approval		Amount outstanding		Terms and conditions			% to Tier 1 capital	No. of days in arrears	
				Fund-based	Non-fund based	Fund-based	Non-fund based	Rate of interest	Remaining term to maturity	Collateral			
			DD MM YY	MUR 000 or USD 000		MUR 000 or USD 000		%	days	Value MUR 000 or USD 000	Last valuation date	%	
			1	2	3	4	5	6	7	8	9	10	11

Annexure II

Exempted Related party Transactions

Statement of Related Party Transactions as at _____													
Name of institution: _____													
Tier 1 capital as at _____ (in MUR 000 or USD 000)													
Name of related party	Relationship with reporting institution	Purpose of transaction	Date of approval	Approval		Amount outstanding		Terms and conditions			% to Tier 1 capital	No. of days in arrears	
				Fund-based	Non-fund based	Fund-based	Non-fund based	Rate of interest	Remaining term to maturity	Collateral			
			DD MM YY	MUR 000 or USD 000		MUR 000 or USD 000		%	days	Value MUR 000 or USD 000	Last valuation date	%	
			1	2	3	4	5	6	7	8	9	10	11