STATUTORY INSTRUMENTS
SUPPLEMENT No. 46 31st December, 2020

STATUTORY INSTRUMENTS SUPPLEMENT

to The Uganda Gazette No. 88, Volume CXIII, dated 31st December, 2020

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

STATUTORY INSTRUMENTS

2020 No. 147.

THE FINANCIAL INSTITUTIONS (CAPITAL BUFFERS AND LEVERAGE RATIO) REGULATIONS, 2020.

ARRANGEMENT OF REGULATIONS

Regulation

2020 No. 147.

The Financial Institutions (Capital Buffers and Leverage Ratio) Regulations, 2020.

(Under sections 27 (1), (2), (4) and 131 (1) (c) and (m) of the Financial Institutions Act, 2004, Act No. 2 of 2004

IN EXERCISE of the powers conferred upon the Central Bank by sections 27 (1), (2), (4) and 131(1) (c) and (m) of the Financial Institutions Act, 2004, and in consultation with the Minister responsible for finance, these Regulations are made this 22nd day of October, 2020.

PART I—PRELIMINARY

1. Title
These Regulations may be cited as the Financial Institutions (Capital Buffers and Leverage Ratio) Regulations, 2020.

2. Application
These Regulations apply to all financial institutions.

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

"Act" means the Financial Institutions Act, Act No.2 of 2004;

"financial institution" has the meaning assigned to it under the Financial Institutions Act, Act No.2 of 2004;

"capital conservation buffer" means a ratio of additional capital in relation to the total risk adjusted assets plus the risk adjusted off balance sheet items, over and above the minimum on going core capital and total capital requirements specified under section 27(1) of the Financial Institutions Act, 2004;

"combined buffer" means the consolidated sum of the capital conservation buffer, the countercyclical capital buffer and the systemic risk buffer;

"core capital (Tier 1) has the meaning assigned to it under the Financial Institutions (Capital Adequacy Requirements) Regulations, 2018;

"countercyclical capital buffer" means a ratio of extra capital in relation to the risk adjusted assets plus risk adjusted off balance sheet items that every financial institution shall maintain, over and above the regulatory minimum on going core capital and total capital requirements and the capital conservation buffer of that financial institution;

"risk adjusted assets plus risk adjusted off balance sheet items" has the meaning assigned to it under the Financial Institutions (Capital Adequacy Requirements) Regulations, 2018;

"systemic risk buffer" means the ratio of additional core capital (Tier 1) in relation to the risk adjusted assets plus risk adjusted off balance sheet items over and above the regulatory minimum on going core capital and total capital requirements plus the capital conservation buffer, to be held by a systemically important financial institution;

"systemically important financial institution" means a financial institution whose impairment or failure may trigger a financial disruption within the economy; and

"total capital" means the sum of core capital and supplementary capital as defined under the Financial Institutions (Capital Adequacy Requirements) Regulations, 2018.

4. Objectives
The objectives of these Regulations are to—

(a) prescribe the capital buffer requirement for financial institutions;

(b) ensure that financial institutions maintain capital standards recognized internationally as prudent;

(c) provide financial institutions with a buffer for losses during periods of financial and economic stress without breaching the minimum core capital and total capital adequacy requirements, protect the financial institutions sector from the buildup of systemic risks during an economic upswing when aggregate credit growth tends to be excessive and reduce the likelihood of impairment or failure of systemically important financial institutions; and

(d) help promote and maintain public confidence in the Ugandan financial sector.

PART II—BUFFERS

5. Capital conservation buffer

(1) A financial institution shall at all times maintain a capital conservation buffer of 2.5% of the total risk adjusted assets plus risk adjusted off balance sheet items, over and above the minimum on going core capital and total capital requirements prescribed under the Act and these Regulations.

(2) The capital conservation buffer shall be met by core capital (Tier 1).

(3) For purposes of subregulation (1), the minimum on going core capital and total capital requirements and the capital conservation buffer shall comprise of—

(a) a core capital (Tier 1) of not less than 12.5% of total risk adjusted assets plus risk adjusted off balance sheet items of the financial institution; and

(b) a total capital of not less than 14.5% of total risk adjusted assets plus risk adjusted off balance sheet items of the financial institution.

6. Systemic risk buffer

(1) The Central Bank may designate a financial institution as a systemically important financial institution.

(2) The Central Bank shall by notice in writing notify a financial institution designated as a systemically important financial institution under subregulation (1), of its designation.

(3) Every financial institution designated as a systemically important financial institution, shall maintain the systemic risk buffer ranging from 0% to 3.5% of the risk adjusted assets plus the risk adjusted off balance sheet items, over and above—

(a) the minimum on going core capital requirements and the total capital requirements; and

(b) the capital conservation buffer.

(4) The Central Bank shall determine the level of the systemic risk buffer to be maintained by the financial institution and shall notify the financial institution in writing.

(5) The systemic risk buffer shall be met by core capital (Tier 1).

7. Countercyclical capital buffer

(1) The Central Bank may require a financial institution to maintain a countercyclical capital buffer in addition to the capital conservation buffer required under regulation 5.

(2) The countercyclical capital buffer may range from 0% to 2.5% of total risk adjusted assets and the risk adjusted off the balance sheet items of the financial institution.

(3) The countercyclical capital buffer shall be determined by the weighted-average of the prevailing countercyclical capital buffer requirements applied in the jurisdictions where the financial institution has credit exposures.

(4) The countercyclical capital buffer shall be met by core capital (Tier 1).

(5) The Central Bank shall, in writing to the financial institution referred to in subregulation (1), prescribe the counter cyclical buffer and the disclosure requirements to be maintained by the financial institution.

8. Failure to meet prescribed buffer requirements

(1) A financial institution that fails to maintain the prescribed capital conservation buffer shall not make any distribution in connection with Tier 1 capital, to the extent that the distribution would decrease the Tier 1 capital of the financial institution to a level where the financial institution is unable to meet the capital conservation buffer requirements.

(2) Where a financial institution fails to maintain the prescribed capital conservation buffer, that financial institution shall not be allowed to—

(a) distribute capital;

(b) declare or pay out dividends;

(c) pay out bonuses, salary incentives, severance packages; or

(d) pay out management fees or other discretionary compensation to the directors or officers of the financial institution.

(3) Where a financial institution is required to maintain the systemic risk buffer prescribed under regulation 6, the restrictions under subregulations (1) and (2) of this regulation shall apply to the financial institution.

(4) Where a financial institution is required to maintain a countercyclical capital buffer prescribed under regulation 7 the restrictions under subregulations (1) and (2) of this regulation, shall apply to the financial institution.

9. Capital conservation plan

(1) Where a financial institution fails to maintain the required capital conservation buffer or the combined buffer requirements, as the case may be, the financial institution shall prepare a capital conservation plan and submit it to the Central Bank for approval within forty five working days from the day the financial institution recognised the inability to meet that requirement.

(2) The capital conservation plan referred to in subregulation (1) shall include—

(a) estimates of income and expenditure and a forecast balance sheet of the financial institution;

(b) proposed measures to increase the capital buffers of the financial institution;

(c) a plan and timeframe for the increase of core capital (Tier 1) for compliance with the combined buffer requirements; and

(d) any other information that the Central Bank deems necessary for carrying out the assessment.

(3) Where the Central Bank does not approve the capital conservation plan prepared by a financial institution in accordance with

subregulation (1), the Central Bank shall require the affected financial institution to increase the core capital to specified levels within a set period of time.

PART III—LEVERAGE RATIO

10. Leverage ratio requirements

(1) A financial institution must at all times comply with a leverage ratio equal to or greater than 6% of the total balance sheet and off balance sheet assets.

(2) The leverage ratio referred to in subregulation(1) shall be—

(a) calculated as the core capital of the financial institution divided by the total balance sheet of the financial institution plus off balance sheet exposure; and

(b) expressed as a percentage.

(3) The Central Bank shall by notice to the financial institution, set out the methodology for the computation of the leverage ratio and the reporting requirements required of the financial institution.

PART IV—ADDITIONAL CORRECTIVE ACTIONS

11. Administrative sanctions

The Central Bank may, in addition to the corrective actions prescribed under the Financial Institutions Act, 2004, impose any of the following administrative sanctions against a financial institution or against an officer of the financial institution who fails to comply with the requirements of these Regulations—

(a) prohibit the expansion or engagement of the financial institution into new financial institution business activities;

(b) prohibit the acquisition by the financial institution of fixed assets by purchase or lease;

(c) prohibit the financial institution from establishing new places of business;

(d) suspend the opening of letters of credit or issuance of guarantees by the financial institution;

(e) suspend the acceptance of new accounts by the financial institution; or

(f) restrict or suspend the lending, investment and credit operations of the financial institution.

PART V—TRANSITIONAL ARRANGEMENT

12. Transitional arrangement

Every financial institution shall comply with these Regulations within twelve months from the date of coming into force of the Regulations.

Cross Reference

The Financial Institutions (Capital Adequacy Requirements) Regulations, 2018, Statutory Instrument No. 21 of 2018.

E. TUMUSIIME-MUTEBILE (PROFFESSOR)
Governor.