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**BANKS AND TRUST COMPANIES (LARGE EXPOSURES)
(AMENDMENT) REGULATIONS, 2012**

Arrangement of Sections

Section

1.	Citation.....	2
2.	Amendment of Regulation 2 of the principal Regulations.....	2
3.	Repeal and replacement of Regulation 3 of the principal Regulations.....	4
4.	Amendment of Regulation 4 of the principal Regulations.....	5
5.	Amendment of Regulation 5 of the principal Regulations.....	5
6.	Repeal and replacement of Regulation 7 of the principal Regulations.....	5
7.	Amendment of Regulation 8 of the principal Regulations.....	6
8.	Repeal and replacement of Regulation 12 of the principal Regulations.....	7
9.	Repeal and replacement of Regulation 16 of the principal Regulations.....	7

MINISTRY OF FINANCE

S.I. No. 26 of 2012

**BANKS AND TRUST COMPANIES REGULATION ACT
(CHAPTER 316)**

**BANKS AND TRUST COMPANIES (LARGE EXPOSURES)
(AMENDMENT) REGULATIONS, 2012**

The Governor of the Central Bank of The Bahamas, in exercise of the powers conferred by section 24 of the Banks and Trust Companies Regulation Act, makes the following regulations —

1. Citation.

These Regulations, which amend the Banks and Trust Companies (Large Exposures) Regulations¹, may be cited as the Banks and Trust Companies (Large Exposures) (Amendment) Regulations, 2012.

2. Amendment of regulation 2 of the principal Regulations.

Regulation 2 of the principal Regulations is amended by —

- (a) the repeal and replacement of the words “capital base” together with the accompanying definition as follows —

““**capital base**” means the total of shareholders' funds plus other capital items permitted by the Central Bank and subject to any adjustment or deduction required by the Central Bank and reported in the most recent Statement of Capital Adequacy schedule of the Excel Reporting System or in such form as determined by the Central Bank;”;

- (b) the repeal and replacement of the word “exposure” together with its accompanying definition as follows —

““**exposure**” means —

- (i) claims on a counterparty including actual claims and potential claims which would arise from the drawing

¹*Sub. Leg: Vol.V; Ch. 316-24*

down in full of undrawn advised facilities, whether revocable, irrevocable, conditional or unconditional, which the licensee has committed itself to provide and claims which the licensee has committed itself to purchase or underwrite;

- (ii) contingent liabilities arising in the normal course of business and liabilities that would arise from the drawing down of undrawn advised facilities;
 - (iii) holdings of equity capital, bonds, bills or other financial instruments;
 - (iv) any other assets that constitute a claim on a counterparty by the licensee and which are not included in sub-subparagraphs (i), (ii), or (iii);”;
- (c) the repeal and replacement of the word “licensee” together with its accompanying definition as follows —

““licensee” —

- (i) means any bank or trust company which is incorporated in The Bahamas and holds a licence granted under section 4 of the Act; and
 - (ii) does not include nominee trust companies and restricted banks and or trust companies whose operations are limited to conducting business either on behalf of clients who are members of the same family or for specified persons which are named in the licence;”;
- (d) the repeal and replacement of the words “Zone A countries” together with the accompanying definition as follows —

““Zone A countries” means any country which is a full member of the Organization for Economic Co-operation and Development together with any country which has concluded lending arrangements with the International Monetary Fund associated with the General Agreement to Borrow but excludes those countries —

- (i) which have rescheduled their external debts during the preceding five years;
- (ii) whose rating for long-term liabilities in foreign currencies is lower than investment grade; and
- (iii) which have no rating and whose yield to maturity and remaining duration are not comparable with those of long-term liabilities with an investment grade rating;”;

- (e) the amendment of the definition of the words "related party" by the deletion wherever it appears of the word "above";
- (f) the deletion of the words "connected party" together with the accompanying definition;
- (g) the insertion in the appropriate alphabetical order of the following words and definitions —

"control" means the power, whether arising from ownership, contract, guarantee, agreement, or otherwise, whereby one person can direct the affairs of another;

"group of connected parties" means two or more individual counterparties that constitute a single risk and includes —

- (i) any party that, either directly or indirectly, controls the counterparty;
- (ii) any party that is controlled, either directly or indirectly, by any party that controls, either directly or indirectly, the counterparty;
- (iii) a subsidiary or associate company of the counterparty;
- (iv) directors, executive officers, senior staff, and controlling shareholders, of the counterparty; and
- (v) directors, executive officers, senior staff, and controlling shareholders, of any person identified in (i), (ii) and or (iii);

"Zone A banks" means banks that are located in Zone A countries;

"Zone A central banks" means central banks located in Zone A countries;

"Zone A central governments" means central governments located in Zone A countries;

"Zone B central banks" means central banks located in Zone B countries;

"Zone B central governments" means central governments located in Zone B countries;

"Zone B countries" means those countries which are not included in Zone A."

3. Repeal and replacement of Regulation 3 of the principal Regulations.

Regulation 3 of the principal Regulations is repealed and replaced as follows —

"3. Single Exposure Limit.

- (1) No licensee shall incur exposures, on an aggregate basis, to any individual counterparty or group of connected parties, which exceed twenty-five percent of the licensee's capital base.
- (2) No licensee shall hold non-capital investments in securities of a single issuer which exceed ten percent of the licensee's capital base."

4. Amendment of Regulation 4 of the principal Regulations.

Regulation 4 of the principal Regulations is amended —

- (a) by the repeal and replacement of paragraph (1) as follows —
 - "(1) No licensee shall incur exposures to its related parties which in aggregate exceed fifteen percent of the licensee's capital base."; and
- (b) in paragraph (2) —
 - (i) by the deletion of the word "arms" and the substitution of the word "arm's"; and
 - (ii) by the insertion in sub-paragraph (a) immediately after the semi-colon, of the word "and".

5. Amendment of Regulation 5 of the principal Regulations.

Regulation 5 of the principle Regulations is amended by the deletion of the word "concessionary" and the substitution of the word "concessive".

6. Repeal and replacement of Regulation 7 of the principal Regulations.

Regulation 7 of the principal Regulations is repealed and replaced by the following —

"7. Exempt Exposures.

The following exposures shall be exempt from the limits outlined in regulations 3, 4 and 6 —

- (a) exposures to the Government of The Bahamas and non-commercial Bahamian governmental institutions or secured by securities and or guarantees of the Government of The Bahamas;
- (b) exposures to Zone A central banks;
- (c) exposures to Zone A central governments which are rated high grade or higher by two of the major credit rating agencies for foreign currency debt;

- (d) exposures secured by securities and or guarantees from Zone A central governments which are rated high grade or higher by two of the major credit rating agencies for foreign currency debt;
- (e) short-term interbank deposits of not more than six months maturity, booked with Zone A banks; and
- (f) exposures which are fully collateralized throughout their tenure by cash deposits, including certificates of deposit and equivalent instruments issued by the lending bank, held by the lender with the specific right of offset, where the release of the deposit is conditional on the repayment of the related extensions of credit.”.

7. Amendment of Regulation 8 of the principal Regulations.

Regulation 8 of the principal Regulations is amended —

- (a) by re-lettering the existing sub-paragraph (a) as sub-paragraph (b);
- (b) by the insertion of a new sub-paragraph (a) as follows —
 - “(a) exposures to Zone B central governments and central banks which are denominated in the country's local currency and funded by liabilities in the same currency rated high grade or higher by two of the major credit rating agencies for foreign currency debt;”;
- (c) by the repeal and replacement of the existing sub-paragraphs (b), (c), (d) and (e) as follows —
 - “(c) exposures which are supported by a parental guarantee acceptable to the Inspector;
 - (d) underwriting exposures which do not exceed 90 days duration. Any residual holdings of securities, which are held for more than 90 days, shall not be treated as exempt and shall be subject to the limits outlined in regulations 3, 4 and 6;
 - (e) off-balance sheet exposures to banks which are acceptable to the Inspector; and
 - (f) exposures to related parties where the licensee or the related party is fulfilling a treasury role on behalf of the group or managing liquidity across the group and the conditions set by the Inspector have been met.”.

8. Repeal and replacement of Regulation 12 of the principal Regulations.

Regulation 12 of the principal Regulations is repealed and replaced by the following —

“12 Notification of breach.

A licensee shall, on becoming aware of any breach of regulations 3, 4 or 6

- (a) notify the Inspector and provide the particulars of the breach in the manner determined by the Inspector within two working days after breaching the regulations; and
- (b) take immediate action to bring the exposure within the established limits as soon as practicable but no later than ten working days after breaching the limits.”

9. Repeal and replacement of Regulation 16 of the principal Regulations.

Regulation 16 of the principal Regulations is repealed and replaced by the following —

“16 Penalty for non-compliance.

- (1) Subject to paragraph (2), the Central Bank may impose a fine not exceeding five thousand dollars where a licensee fails to comply with the provisions of any of regulations 3, 4, 6, 11 or 12.
- (2) The Governor may, if he thinks fit, exempt a licensee from the provisions of this regulation.”

Made this 2nd day of March, 2012.

Signed
WENDY CRAIGG
Governor of the Central Bank of The Bahamas