



MALDIVES MONETARY AUTHORITY

PRUDENTIAL REGULATION

REGULATION ON LIMITS ON LOANS TO RELATED PERSONS

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PART I: PRELIMINARY

- 1: **Introduction** – This Regulation is issued pursuant to Section 66 of Law No. 24/2010 (Maldives Banking Act).
- 2: **Title** – This Regulation shall be cited as "Regulation on Limits on Loan to Related Persons."
- 3: **Application** – This Regulation applies to all Banks licensed under the Maldives Banking Act.
- 4: **Definitions** – The terms and expressions used in this Regulation shall, except where expressly defined below in this Regulation or where the context otherwise requires, have the same respective meaning as in the Maldives Banking Act (Law no. 24/2010):
 - (1) "**administrator**" – means a person who is a director, executive officer, member of the audit committee of a bank, or, in the case of a foreign bank, the designated branch manager.
 - (2) "**associate**" – means any person over whom another person exerts or has the ability to exert significant influence and who is not a subsidiary of the first person; also referred to as an "affiliate" or "affiliated person". (See also International Accounting Standard IAS-28 or successor standards).
 - (3) "**bank**" – means a party holding a license or permit under the Maldives Banking Act (Law no. 24/2010), to engage in the banking business, all or part of the banking activities listed in Section 25 of the Maldives Banking Act (Law no. 24/2010).
 - (4) "**capital base**" – means Capital Base defined in Capital Adequacy Regulation issued by the MMA.
 - (5) "**current market value**" – means that value determined by using valuation methods appropriate to the type of property being evaluated. For commercial and multi-use properties (combined residential/rental/commercial), current market value is the average of values determined using the (i) comparable sales approach, (ii) cost approach and (iii) income (discounted cash flows) approach; for residential property (mainly owner-occupied/non-rental) the value is the average of values determined by using the comparable sales and cost approaches. The insured/insurable amount of property held as collateral is not acceptable as a substitute for current market value. The determination of current market value must be documented in writing, show assumptions, analyses and conclusions used, and be available for review by the MMA. As used herein, the term "current" means within a period of 36 months.
 - (6) "**executive officer**" – means a person who is an employee of a bank licensed to conduct banking operations in the Maldives who, regardless of title, participates in policy-making functions, or is responsible for any material portion of the business activities of the bank, or is authorized to commit the bank's funds by making loans or investments. The term includes, but is not limited to, the chairman of the board, the president, the managing director, every vice president, and the treasurer of a bank.
 - (7) "**credit exposure**" or "exposure" – means :-
 - (a) any disbursement or commitment to make a disbursement of a sum of money in exchange for the right to receive repayment of the amount disbursed and outstanding and to payment of interest or service charge on such amount;
 - (b) any guarantee issued subject to repayment;
 - (c) any purchase at par or at discount of a debt security; and
 - (d) other right to receive payment of a sum of money.
 - (8) "**infrastructure lending**" – means any exposure on account of the following infrastructure sub-sectors:
 - (i) Sector: Transport
Sub-sectors: (a) Roads (b) Bridges (c) Ports (d) Airports
 - (ii) Sector: Energy
Sub-sectors: (a) Electricity Generation (b) Electricity Transmission

(c) Electricity Distribution (d) Oil/gas storage facility (e) Pipeline oil/gas distribution network

Sector: Water and Sanitation

Sub-sectors: (a) Water supply projects (b) Water treatment systems
(c) Sanitation and sewerage systems (d) Solid Waste management

Sector: Communication

Sub-sectors: Telecommunication Services whether basic or cellular, including radio paging, network, and internet services

Sector: Social Infrastructure

Sub-sectors: (a) Construction of educational institutions (b) Construction of hospitals
(c) Housing projects

Sector: Commercial Infrastructure

Sub-sectors: (a) Common infrastructure for agriculture and fishing
(b) Tourism construction projects costing more than USD 50 million
(c) Industrial park or special economic zone.

(9) "**loans**" – means the same as exposures unless defined otherwise in text.

(10) "**MMA**" – means the Maldives Monetary Authority established under the Law no. 6/81 (Maldives Monetary Authority Act).

(11) "**net realizable value**" – means that amount which a bank can reasonably expect to realize after discounting the value of collateral to current market value and deducting the reasonable and estimable costs of recovery and sale. Costs of recovery and sale typically include, but are not limited to: legal fees, appraisal costs, sales fees, insurance cover, maintenance, security, and any other expenses necessary to put the collateral in a saleable condition. Net realizable value must be documented in writing, show assumptions, analyses and conclusions, and be available for review by MMA.

(12) "**person**" – means a natural person, company, corporation, associate, trust, joint venture, partnership or other business enterprise.

(13) "**qualifying holding**" – means a direct or indirect holding by a person acting alone or through or in concert with one or more other persons in an undertaking which represents 10% or more of the voting rights or which makes it possible to exercise significant influence over the management of the undertaking in which the holding exists, as the MMA may determine.

(14) "**related person**" – means (a) any administrator of the bank, (b) any person who is related to an administrator by marriage, blood or kinship up to the second degree, including children of the administrator, and any other person residing in the administrator's household who is dependent on the administrator for his support, (c) any person who has a qualifying holding in the bank, and any undertaking in which any such person or any administrator of the bank has a qualifying holding, and any administrator of such person or undertaking, and (d) any undertaking, not subject to consolidation in the preparation of financial statements of the bank, in which the bank holds a qualifying holding, and any administrator of such undertaking. For purposes of this regulation, any employee of a bank is also considered a related person.

Two or more persons will be considered to be related if one person has the ability, directly or indirectly, to control the other person/s or to exercise significant influence over the financial and operating decisions of the other person/s, or if both persons are subject to common control or common significant influence.

(15) "**subsidiary**" – means any legal entity in which another person or group of persons acting in concert holds 50% or more of the voting shares or any other holding that permits such other person or group of persons to

exercise effective control over the management or policies of the legal entity in which the holding exists.

PART II: STATEMENT OF POLICY

- 1: **Purpose** – The purpose of this regulation is to prevent a bank from granting imprudent or excessive loans to related persons, individually and in the aggregate, relative to the bank's capital base. This regulation is also intended to assure that all loans made to related persons of a bank are on substantially the same terms and conditions as loans to non-related borrowers.
- 2: **Responsibility** – It is the responsibility of the board of directors of each bank to establish policies and procedures to ensure that all exposures to related persons (a) fully comply with the limitations set forth in the Act and in this regulation, and (b) are made and administered according to prudent lending practices.

PART III: IMPLEMENTATION AND SPECIFIC REQUIREMENTS

- 1: **Limits and Requirements** - The following limits and prohibitions shall apply:
 - (a) **Basic limit**: the total of all loans outstanding to any one related person shall not at any time exceed 15% of a bank's capital base.
 - (b) **Aggregate limit**: the total of all loans to all related persons of the bank shall not at any time exceed 50% of a bank's capital base.
 - (c) **Security**: all loans to related persons shall be fully secured at all times, provided that loans to any one related person that do not, in the aggregate, exceed 2% of the bank's capital base, are exempt from this requirement. For purposes of this regulation, "fully secured" means that the combined principal and accrued interest for all loans is less than the net realizable value of the security as defined in this regulation.
 - (d) **Terms and creditworthiness**: all loans to related persons (i) shall be on the same terms and conditions, including interest rates, fees, margins and security, as those applicable at the time of origination to similar loans to any other person who is not a related person of the bank, (ii) shall not involve more than the normal risk of repayment or any other unfavourable features, and (iii) the bank shall apply credit underwriting procedures that are no less stringent than those applied for comparable transactions with persons who are not related persons.
 - (e) **Exceptions**: notwithstanding the limits and requirements immediately preceding, the following exceptions shall apply:
 - i) **correspondent deposit accounts** – the limits and requirements of paragraphs (a)-(d) shall not apply to a deposit account maintained in the ordinary course of business by a bank in another bank that is (1) the controlling shareholder of the depositing bank, or (2) a subsidiary of the holding company of which the depositing bank is also a subsidiary;
 - ii) **direct on-lending** – the limits and requirements of paragraphs (a)-(d) shall not apply to loans made in the ordinary course of business to a subsidiary bank or another financial institution for the purpose of direct on-lending to one or more counterparties who are not related to the bank.
 - iii) **concessionary rates of interest** – a bank may make loans at concessionary rates of interest to any person who is an employee of the bank (but not to a non-executive director or to a company, partnership or joint venture owned or controlled by an employee) provided that the loan is made in accordance with a defined employee benefits-compensation policy. For this exception to apply, the policy must:
 - (A) be in writing and formally adopted by the board of directors;
 - (B) apply equally to all employees of the bank and not give preference to any one or more persons or classes over other employees;

(C) allow only for a concessionary interest rate (i.e. price) but not for any concessions in respect of credit underwriting standards (i.e. quality);

(D) restrict the loan purpose to (1) purchase or improvement of the residence of the employee, (2) educational or medical expenses, or (3) personal and household expenditures for private, non-commercial purposes;

(E) restrict the total outstanding balance of loans made to an employee at concessionary rates to the lesser of (1) three times the employee's annual cash compensation (i.e. salary plus cash bonus) in the prior calendar year, or (2) Rf 1,000,000, but in no event shall such total balance exceed 15% of the bank's capital base;

(F) require that all other terms and conditions (i.e. repayment terms, types of collateral, security margins, income requirements, etc.) must be no more favourable than for similar loans to persons who are not related parties; and

(G) comply, in form and substance, with all applicable laws and regulations of the MMA.

- (iv) **Government, or Government-backed debts.** Extensions of credit made directly to the Government or to any agency or Ministry of the Government; or that the Government has unconditionally guaranteed as to payment of principal and interest, or that are fully secured by full faith and credit obligations of the national government (e.g. government securities), are exempt from the limits in paragraph 1(a,b) above. However, exposures of companies (i.e. state-owned enterprises or SOE's) that are owned by the national government, either wholly or in part, but which are separate legal entities shall be subject to the limits in paragraph 1(a,b) unless the national government is directly obligated for or has unconditionally guaranteed the debts of such companies in writing as to the repayment of both principal and interest.
- (v) **Exposures secured by assigned deposits.** Exposures, or portions thereof, that are fully secured at all times by pledged deposits in the lending bank shall be exempt from the limits set forth in paragraph 1(a,b) above. For this exception to apply, the deposit (i) must be specifically assigned to the bank in writing by the customer, (ii) must be segregated and under the sole control of the bank, and (iii) the bank must have the explicit legal right to set off the deposit against the exposure at any time. If a pledged deposit is in a currency different from the currency of the exposure, then the amount of exposure exempt from the limit will be the amount of the deposit converted into the same currency as the exposure using the official mid-rate of exchange.
- (vi) **Infrastructure lending.** A bank may exceed the credit exposure limits set forth in paragraph 1(a) and (b) above, by up to an additional 10 percent of its capital base, provided the additional credit exposure is on account of infrastructure lending. This means that the increase in the basic limit to any related party or parties on account of infrastructure lending is subject to the aggregate limit for all related parties not exceeding 60% of the bank's capital base.
- (f) **Prior board approval:** if the total of any new loan plus all other loans outstanding to a related person will exceed 5% of the bank's capital base, then: (i) all existing loans must first be acknowledged by the board of directors; (ii) the proposed new loan must be approved in advance by a favourable vote of two-third of the entire board of directors or in the case of branch of foreign bank, by the designated branch manager; and (iii) the related person must abstain from participating directly or indirectly in the voting process. Participating in discussions or any other attempt to influence the decision of the board regarding a loan to a related person shall constitute indirect participation in the decision process.
- (g) **Determination:** the MMA will have sole discretion to decide whether a person is considered a related person and subject to the limits and requirements above.

2: **Nonconforming loans** - (a) if a loan to an related person complies to the requirements in paragraph 1 when made but later fails to comply because (i) the bank's capital base declines, (ii) the bank merges with another bank that also has loans to the related person, (iii) the lending limit or capital base rules change, or (iv) the security for the loan fails to satisfy paragraph 1(c), then the loan will be considered 'nonconforming'.

(b) if an exposure to an insider becomes 'nonconforming' for reasons (i, ii or iii) above, then the bank shall promptly take all reasonable actions to bring the exposure into compliance unless doing so would be inconsistent with safe and sound banking practices, in which case a majority of the board of directors shall give its approval for

not taking actions and shall document the reasons in the minutes of the board.

(c) if an exposure becomes 'nonconforming' for reason (iv), then the bank must bring the exposure into compliance within 10 calendar days, unless judicial proceedings, regulatory actions, or other circumstances beyond bank control prevent taking action.

- 3: **Reports by directors and executive officers** - (a) every director and every executive officer of a bank who becomes indebted to any other bank/s in an aggregate amount greater than 5% of the capital base of the bank where he is a director or executive officer, shall make a written report to the board of directors of the bank where he is a director or executive officer within 10 days after exceeding the 5% level. Such report shall provide, at a minimum, the following details: (i) the names of all banks to which the officer is indebted; (ii) the date, amount, terms and security for each loan; (iii) the use of proceeds and source of repayment for each loan; and (iv) the current balance and repayment status of the loan/s.

(b) every director and every executive officer of a bank shall submit a report to the board of directors of the bank where he is a director or executive officer annually by not later than 15th January detailing the: (i) the names of all financial institutions, domestic or foreign, to which he is indebted as at 31st December of the year immediately preceding; (ii) the original amount/s and current outstanding balance/s of such loan/s, (iii) the purpose of such loan/s; and (iv) whether repayments are current on the loan/s.

For purposes of item (b)(ii) above, it will be acceptable to show loan amount/s in the following size ranges: Rf 0-100,000; Rf 100,001-500,000; Rf 500,001-1,000,000; and <Rf 1 million. For purposes of (b)(iii) above, the loan purpose may be described in general terms, i.e. to purchase/ refinance/remodel home, to purchase securities or investments, to purchase vehicle, to pay personal, medical or education expenses, etc. For (b)(iv), the current status of loan repayments may be shown using the criteria Pass, SM, Substandard, Doubtful or Loss as prescribed in MMA regulation.

4. **Reports by publicly-traded banks** - if the shares of a bank are traded on a public stock exchange, and if a related person directly or indirectly owns, controls, or has the power to vote 10% or more of the ordinary shares of the bank, then the bank shall disclose in its annual external audit report (i) the name of the related person, (ii) the total principal balance of all loans outstanding to that person on the audit date, and (iii) the total of such loans expressed as a percentage of the bank's capital base.
- 5: **Reporting requirements.** Each bank shall submit to the MMA such returns as the MMA may require and in the form and frequency as the MMA may prescribe.

PART IV: CORRECTIVE MEASURES

- 1: **Remedial measures and sanctions** – If a bank, its directors or managers violate any provision of this regulation in a willful, negligent or flagrant manner which results, or threatens to result, in an unsafe or unsound condition of the bank or that threatens the interests of depositors, creditors or the general public, or if the bank, its directors or managers fail to comply with the instructions and reporting requirements in this regulation, the MMA may take any one or more of the corrective measures or impose any administrative penalties as provided in the Maldives Banking Act (Law no. 24/2010). Such measures and penalties may include, but are not limited to, any or all following –
- (a) Issue a warning to the bank;
 - (b) Enter into an informal agreement with the bank for correcting violations and any unsafe and unsound practices and conditions;
 - (c) Issue an order to the bank requiring it to cease and desist from particular actions and further to take affirmative actions to correct violations and any unsafe & unsound practices and conditions;
 - (d) Require the board of directors to inject additional capital funds;
 - (e) Restrict the scope of activities of the bank including imposing limitations on any foreign exchange activities,

granting of credit, making of investments, acceptance of deposits, borrowing of money, or other activities as the MMA may deem appropriate;

(f) Suspend access to the credit facilities of the MMA;

(g) Suspend or require the removal of any directors, executive officers or managers;

(h) Appoint an advisor or a conservator;

(i) Impose an administrative penalty on the bank or any of its directors, executive officers or managers; or

(j) Hold personally liable and seek restitution from, as the law allows, any directors, executive officers or major shareholders of the bank; or

(k) Suspend or revoke the bank's license.

PART V: TRANSITIONAL PROVISIONS

- 1: **Commencement** – This Regulation shall come into effect upon publication in the Government Gazette.
- 2: **Supersedence** – This regulation supersedes the Regulation on Limits on Loans to Related Persons (No. 3 of 2009, effective since 18th May 2009) issued by the MMA.

Questions relating to this regulation should be addressed to the Head of Financial Stability, Maldives Monetary Authority.

