127 RISK-BASED CAPITAL ADEQUACY FRAMEWORK FOR STAND-ALONE THRIFT BANKS, RURAL BANKS AND COOPERATIVE BANKS

The guidelines implementing the revised risk-based capital adequacy framework for Stand-alone TBs, RBs, and Coop Banks [1] are in *Appendix 62.*

Capital instruments issued by banks starting 01 January 2014 shall be subject to the criteria for inclusion as qualifying capital provided in *Appendix 59 Annexes A to C and Annexes E to F.*

a. The risk-based capital adequacy ratio (CAR) of stand-alone TBs, RBs and Coop Banks, expressed as a percentage of qualifying capital to risk-weighted assets, shall not be less than ten percent (10%) for both solo basis (head office and branches) and consolidated basis (parent bank and subsidiary financial allied undertakings).

b*. Required reports.* Banks shall submit a report of their risk-based capital ratio on a solo basis (head office plus branches) and on a consolidated basis (parent bank plus subsidiary financial allied undertakings [i.e., RBs and Venture Capital Corporations (VCC) for TBs, and RBs for Coop Banks] quarterly in the prescribed forms within the deadlines, i.e., fifteen (15) banking days and thirty (30) banking days after the end of the reference quarter, respectively. Only banks with subsidiary financial allied undertakings (i.e., RBs and VCCs for TBs, and RBs for Coop Banks) which under the existing regulations are required to prepare consolidated financial statements on a line-by-line basis shall be required to submit report on consolidated basis. The abovementioned reports shall be classified as *Category A-2* reports.

c*. Sanctions*

(1) For non-reporting of CAR breaches

(a) It is the responsibility of the president or any officer of the bank holding equivalent position to cause the immediate reporting of CAR breaches both to its board of directors and to the Bangko Sentral.

It is likewise the responsibility of the president/or any officer holding equivalent position to ensure the accuracy of CAR calculations and the integrity of the associated monitoring and reporting system. Any willful violation of the above will be considered as a serious offense for purposes of determining the appropriate monetary penalties that will be imposed on the president/or any officer holding equivalent position. In addition, the president/or any officer holding equivalent position shall be subject to the non-monetary sanctions:

(i) First offense – warning
(ii) Second offense – reprimand
(iii) Third offense – 1 month suspension without pay
(iv) Further offense – disqualification

(2) For non-compliance with required disclosures

(a) Willful non-disclosure or erroneous disclosure of any item required to be disclosed under this framework in the Published Statement of Condition shall be considered as a serious offense for purposes of determining the appropriate penalty that will be imposed on the bank. In addition, the president/or any officer holding equivalent position and the Board shall be subject to the following non-monetary sanctions:

(i) First offense – warning on president/or any officer holding equivalent position and the board of directors
(ii) Second offense – reprimand on president/or any officer holding equivalent position and the board of directors
(iii) Third offense – one (1) month suspension of president/or any officer holding equivalent position without pay
(iv) Further offense – possible disqualification of the president/or any officer holding equivalent position and/or the board of directors

(3) For non-compliance with the minimum CAR

(a) In case a bank does not comply with the prescribed minimum CAR, the Monetary Board may limit or prohibit the distribution of net profits by such bank and may require that part or all of net profits be used to increase the capital accounts of the bank until the minimum requirements has been met. The Monetary Board may, furthermore, restrict or prohibit the acquisition of major assets and the making of new investments by the bank, with the exception of purchases of readily marketable evidences of indebtedness of the Republic of the Philippines and of the Bangko Sentral included in paragraph 2, Item *"a.ii"* of Part III, *Appendix 62* and any other evidences of indebtedness or obligations the servicing and repayment of which are fully guaranteed by the Republic of the Philippines, until the minimum requirement capital ratio has been restored.

(b) In case of a bank merger, or consolidation, or when a bank is under rehabilitation program approved by the Bangko Sentral, the Monetary Board may temporarily relieve the surviving bank, consolidated bank, or constituent bank or corporations under rehabilitation from full compliance with the required capital ratio under such conditions as it may prescribe.

(c) A bank may also be subject to Prompt Corrective Action (PCA) framework when either the total CAR, Tier 1 ratio or leverage ratio falls below ten percent (10%), six percent (6%), and five percent (5%), respectively, or such other minimum levels that may be prescribed for the said ratios under relevant regulations, and/or the combined capital accounts fall below the minimum capital requirement prescribed under Sec. 121, pursuant to the provisions of Sec. 003.

Footnotes

1. These refer to TBs, RBs and Coop Banks that are not subsidiaries of UBs and KBs.