



BANKING COMMISSION

P.O. Box 1408

Majuro, Marshall Islands 96960

PHONE: (692) 625-2310 | 6309

DIRECTIVE 5

CAPITAL ADEQUACY REQUIREMENTS

PURPOSE

1. The purpose of this Directive is to require all licensed banks¹ incorporated in the Republic of the Marshall Islands (RMI) to comply with the Banking Commission's capital requirements and Risk-Based Capital Ratio (Tier-Capital) which should be maintained at all times of not less than 15% of total on-balance sheet assets and off-balance sheet risk exposures.
2. This Directive is designed to assist the Banking Commission conduct effective prudential supervision of licensed banks to ensure that an adequate level of capital is maintained by licensed banks at all times consistent with the capital reporting requirements set forth in this Directive.

STATUTORY REFERENCE

3. This Directive is issued by the Commissioner of Banking (Commissioner) as authorized pursuant to Section 156 of the Banking Act 1987 (the Act) and shall be applicable to all licensed banks in the RMI.
4. Part V Sections 120 of the Banking Act 1987 requires every domestic bank licensed to conduct banking business in the RMI to maintain at all times an unimpaired issued capital stock in an amount not less than \$1,000,000 originally paid up in cash. It is also required under this section that a licensed domestic bank shall not reduce its paid-up capital without the prior written approval of the Commission of Banking.

¹ "Licensed Bank" means a bank licensed under the provisions of the Banking Act, 1987.

5. Section 121 provides the requirement for banks to maintain a reserve fund and shall out of the net profit each year before paying out dividends or transferring profits elsewhere transfer to such reserve fund a sum equivalent to 25% of the profit until the reserve fund is equal to the paid-up capital and that the reserve fund shall not be reduced or impaired without the Commissioner's approval.
6. Section 150 (Minimum Capital Ratios) of the Act further authorizes the Commissioner to prescribe the minimum ratios which the capital and surplus of banks shall bear to the total volume of their assets or liabilities or to any specified categories of such assets or liabilities. The Banking Commissioner for the purpose of enforcing this section has issued under this Directive the requirement for licensed banks to maintain an adequate level of capital that will support the various risks that the bank is exposed to at all times through the maintenance of a Risk-Based Capital (Tier-1) Ratio of not less than 15%.
7. The Commissioner, pursuant to Section 137 of the Act, may from time to time, by notice in writing require any bank or person engaged in banking businesses in the RMI to submit reports and returns as he may require for the purpose of administration and enforcement of the provisions under the Act and Regulations made thereunder. The Commissioner of Banking may revise the form of the statements or returns and the dates when the information shall be submitted as prescribed under Section 137 of the Act.
8. This Directive represents the official reference source applicable to the Risk-Based Capital Return and any additional financial returns that may be issued for the purposes of complying with the capital reporting requirements of the Banking Commission.
9. In addition to the requirement under Section 137 (4) of the Act, a licensed bank will need to ensure that the financial return submitted to the Banking Commission is completed by the Chief Financial Officer or the appointed accountant designee from the Accounting/Finance function. The accuracy and correctness of the information contained in the financial return shall be verified and certified by the bank's internal audit or appointed auditor prior to submission to the Banking Commission.
10. A licensed bank that fails to submit timely and accurate financial returns as required under this Directive will be penalized pursuant to Section 137 (3).

CAPITAL ADEQUACY OF BANKS

11. The Board of Directors ("Directors") of the licensed bank shall adopt and maintain a formal policy for the bank to maintain at all times a level of capital which is adequate in the Directors' view in relation to the size and nature of its business in order to support the various risks associated with the bank's operations.

12. The bank will need to maintain an adequate level of capital that will enable it to absorb losses without having to cease trading and to support its' future expansion plans.
13. The bank shall maintain an adequate level of legal reserve in accordance with the requirement under Section 121 of the Act.
14. It is essential that the capital of the bank should not be impaired in any way and therefore proper and timely adjustment must be made for any known or expected diminution in the value of any loans, securities or other assets to ensure neither the value of assets nor capital is overstated.
15. The licensed bank must at all times maintain a 'Tier-1 Capital' (as defined below) of an amount equal to not less than 15 % of the 'Total Assets' (as defined below) of the bank.

DEFINITIONS AND COMPONENTS OF CAPITAL

16. **Tier 1 Capital-** shall be defined as the Eligible Capital (paid-up capital, paid-in premium, legal reserve, and undistributed profit) reported in the most recent quarterly submission of the bank's Statement of Condition Report (Form 1), adjusted by deducting the following items:
 - (a) Good will and other intangible assets;
 - (b) Current year's operating losses after tax, where not already deducted from equity capital;
 - (c) The amount of any loans classified as Loss, being the greater of the amount of loss loans identified by the bank or otherwise advised to the bank as classified as loss by any banking supervisory authority as a result of an examination of the loan portfolio of the bank, to the extent that such loans have not been fully charged off against a Specific Reserve or Allowance for Loan Losses or collected in full;
 - (d) The amount of Tier-1 Capital as measured at any time should also be adjusted for any material changes in capital since the last quarter reporting date;
17. **Total Risk-Weighted Assets (RWA)-** defined as the total risk-weighted assets and off-balance sheet risk weighted exposures reported in the bank's recently quarterly submissions of the Statement of Conditions (Form 1) and Off-Balance Sheet Business (Form 8);
18. **Reserve Fund-** Legal reserve as required to be reported in the Statement of Condition Form 1- Line 94 and calculated according to Section 121 of the Banking Act 1987.

19. **Paid-Up Capital-** Issued and Full Paid Shares as required to be reported in the Statement of Condition Form 1- Line

REPORTING ARRANGEMENTS

20. All licensed banks are required to submit the Risk-Based Capital return or any additional returns that will be issued by the Banking Commission within 14 days after the last business day of each calendar quarter.

CERTIFICATION OF COMPLETENESS AND ACCURACY

21. The "Certification and Submission Form" attached to this Directive is required for all regulatory returns and shall be used as the standard cover page for all statutory submissions. It is the ultimate responsibility of the Chief Financial Officer or designee from the Accounting/Finance function complete the financial return and ensure the accuracy and completeness of all information contained in the financial return. The Internal Audit or an appointed Auditor of the bank shall provide the final verification on the accuracy and completeness of the information in the financial return prior to submission to the Banking Commission.
22. Any late, inaccurate and/or incomplete financial return submissions will not be accepted and may be subject to regulatory fines until the correct information is furnished to the satisfaction of the Commissioner.

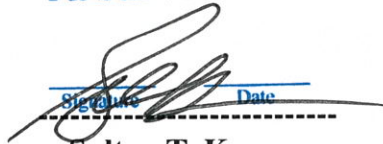
ACKNOWLEDGEMENT OF RECEIPT OF RETURN

23. The licensed bank shall submit financial returns through hand delivery of hard copies to the authorized Banking Commission officer who has been assigned for receiving the return.
24. All financial returns are to be hand-delivered to the Administrative Officer situated in the Banking Commission Administration Office located on the 2nd Floor of Andrew Bing Building Complex. During the absence of the Administrative Officer the bank officer may submit the financial returns to Financial Institutions Supervision department staff for acknowledgement of receipt.
25. Bank officers delivering the returns should not leave the Banking Commission until he/she had obtained the Commission's stamped receipt and signed copy of the Certification and Submission Form, which becomes the official "receipt" acknowledging that the report has been successfully submitted.
26. All inquiries regarding the provisions outlined in this Directive should be addressed to the Commissioner or the Financial Institution Supervision Manager.

Office of the Banking Commission
P.O.Box. 1408
Majuro, MH. 96960
Republic of the Marshall Islands

Reviewed by the Regulation and Policy Review Committee ("RPRC") on 6/21/17

FINAL VERSION


Signature _____ Date _____

Sultan T. Korean
Commissioner of Banking

6/30/17
Date Signed

INSTRUCTIONS 9

RISK BASED CAPITAL REPORTING

GENERAL DEFINITIONS

Instruction 9 represents the general reference source for the Monthly Risk Based Capital return.

1. Eligible Tier 1 capital consists of:

- Paid-up capital as defined in *Instructions and Reporting Forms 1* **LESS** any holdings of own shares in the form of Treasury Stock held. Partly paid shares should be reported at the amount paid. Do not report the unpaid element of partly-paid shares, or authorized but unissued share capital
- The Legal Reserve as defined in *Instructions and Reporting Forms 1*; and
- Prior Years' undistributed profits

Special Reserves that are earmarked for particularly purposes are not generally available to meet losses incurred in the bank and are therefore not recognized as Tier 1 capital.

LESS

- Goodwill and other similar intangibles, which are still to be written-off;
- Current year's losses
- Loans classified as Loss in terms of Banking Commission Directive 3 that have not been fully written-off or provided for.

2. Total balance sheet risk weighted assets are derived according to the methodology set out in the Statement of Assets and Liabilities.
3. Total off-balance sheet risk weighted assets are derived according to the methodology set out in the Off-balance Sheet Business Return.
4. The capital ratio is computed by dividing item 8 by item 11 and multiplying by 100.

REPORTING FORM 9

Institution Name
Risk Based Capital Report
Date (Quarterly)

All amount in (000's)

ELIGIBLE CAPITAL

1 Paid-up Capital	_____	
2 Paid in Premium	_____	
3 Legal reserves	_____	
4 Undistributed Profits	_____	0
5 Less: Goodwill and other similar intangible assets	_____	
6 Less: Current Year's Operating Losses	_____	
7 Less: Loan classified Loss not fully charged-off	_____	0
8 Total Eligible Capital		0
9 Total Balance Sheet Risk Weighted Assets *		
10 Total Off-Balance Sheet Risk Weighted Exposures **		
11 Total Risk Weighted Assets (9+10)		0
12 Ratio of Total Capital to Total risk Assets (8/11)		

* (from Statement of Assets & liabilities report)

** (from off-balance sheet report)