



BANK OF SOUTH SUDAN (BSS)

REGULATION NO. 14, 2012

TRANSACTIONS BETWEEN BANKS AND THEIR RELATED PERSONS

In accordance with the provisions of section 12 of the Bank of South Sudan Act, 2011, and sections 72 through 74 of the Banking Act 2012 (the Banking Act), I hereby issue the following Regulation that establishes conditions for transactions between banks and their related persons, the procedures for engaging in such transactions, and documentation and reporting requirements regarding such transactions.

This Regulation shall be cited as Transactions between Banks and their Related Persons, 2012, and shall come into effect as from the date of its signature.

I. Requirements for transactions with related persons

1. In accordance with section 72(1) of the Banking Act, a bank may not undertake any transaction with any of its related persons unless it has the prior written approval of a majority of the bank's board of directors. The board's decision must be based on full disclosure of all material terms and conditions of the transaction. Such disclosure must include, at a minimum:
 - (a) for credit transactions, the amount of the credit, interest rate, financial information of the borrower demonstrating ability to repay the credit, and information verifying the value of any collateral for the credit;
 - (b) for transactions involving the purchase or sale of assets, the purchase price and information verifying the value of the asset;
 - (c) for investments, an assessment of the risk involved in such investment and the potential benefits to the bank and to the related person in question.
2. The minutes of the board's decision must contain a determination by the board of directors that the transaction is fair to, and in the best interest of, the bank.
3. The bank must maintain a written record of such approval, including the names of those members of the board of directors approving of the transaction.
4. In accordance with section 72(2) of the Banking Act, a member of a bank's board of directors may not participate in the consideration or approval of any transaction between the bank and:
 - (a) himself;
 - (b) any of his close relatives; or
 - (c) any enterprise in which he or any of his close relatives has a significant participation, or serves as a member of the board of directors, member of senior management, or in any equivalent position.
5. The requirements of section 72(3) of the Banking Act do not apply to:
 - (a) deposits in the bank made by its related persons in the normal course of business;



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- (b) making deposits in a bank that is a member of the same group, in the ordinary course of correspondent business, subject to any restrictions that the BSS may prescribe by regulation or order;
 - (c) granting credit fully secured by a deposit account in the bank granting the credit and meeting conditions prescribed by the Bank;
 - (d) granting credit fully secured by obligations of, or guaranteed as to principal and interest by, a central government or central bank whose long-term rating is not lower than "A", or an equivalent level by an internationally-recognised rating agency whose ratings are approved for use by the Bank;
 - (e) selling a loan to a related person of the bank without recourse.
6. In order to meet the conditions of section 72(3)(c) of the Banking Act and section 5(c) of this regulation, the following conditions must be observed:
- (a) the bank must have a right of full offset relative to the deposit account of the amount of outstanding indebtedness;
 - (b) the bank's rights to apply the deposit funds must be registered in accordance with applicable legislation in South Sudan;
 - (c) where a deposit securing a credit is eligible for withdrawal, there must be a written agreement that the deposit will not be withdrawn before the loan is repaid, and the bank must establish internal procedures to prevent release of the deposit without the bank's prior consent;
 - (d) where a deposit that is denominated and payable in a currency other than that of the credit that it secures, that currency must be freely convertible to South Sudanese Pounds;
 - (e) the exception applies to only that portion of the credit that is covered by the South Sudanese Pound value of the deposit; and
 - (f) the bank must establish procedures to revalue foreign currency deposits to ensure that the loan remains fully secured at all times.
7. In accordance with section 72(4) of the Banking Act, credit by a bank to members of its board of directors or senior management may only be granted in accordance with regulations or guidelines prescribed by the BSS. These conditions are:
- (a) a bank may grant credit to such persons to finance the education of the person's children;
 - (b) a bank may grant credit to such persons credit to finance the purchase, construction, maintenance or improvement of the person's residence, provided:
 - (1) the credit is secured by a first mortgage on the residence, and the residence is owned (or expected to be owned after granting of the credit) by the person; and
 - (2) in the case of refinancing, that only the amount of the credit used to pay off the outstanding loan together with closing costs, plus any additional amount used for the purposes described in the first part of this subsection are included in this amount;



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- (c) a bank may grant credit to such persons for consumer or household purposes, or in connection with a credit card programme, not exceeding 100 percent of their annual salary;
 - (d) a bank may grant credit to such persons for any purpose, where the credit is secured by assets referenced in section 72(3)(c) or (d) of the Banking Act (section 5(c) or (d) of this regulation);
 - (e) any credit granted under this section must be in accordance with an employee/director benefit or compensation program, approved by the bank's board of directors, that is widely available to employees of the bank and does not give preferential treatment to directors or senior managers of the bank over other employees;
 - (f) no credit may be granted by a bank to any member of its board of directors or senior management if any credit outstanding from the bank to that person meets the definition of a "low quality asset" as defined in this regulation.
8. In accordance with section 72(5) of the Banking Act, outstanding credit to related persons of a bank must not exceed the following aggregate limits:
- (a) 5 percent of the core capital of the bank, in the case of credits to any related person of the bank, close relatives of that person, and enterprises in which that person or any of his close relatives has a 20 percent participation;
 - (b) 25 percent of the core capital of the bank to all related persons of that bank combined.
9. In accordance with section 72(6) of the Banking Act, every transaction by a bank with a related person of that bank shall be promptly reported to the board of directors of the bank or a designated committee thereof, except for transactions described in section 72(3) of the Banking Act.
10. In accordance with section 72(7) of the Banking Act, if credit has been provided by the bank to the related person in violation of the provisions of sections 72 or 73 of the Banking Act, such credit must be immediately repaid. Members of the board of directors and senior management are personally liable, jointly and severally, for payment of principal of, and interest and other charges on any such credit granted with their knowledge and without their objection.
11. In accordance with section 72(8) of the Banking Act, a transaction is deemed to be a transaction with a related person to the extent that proceeds of the transaction are transferred to, or used for the benefit of, that related person.

II. Prohibited transactions with related persons

12. In accordance with section 73(1) of the Banking Act, a bank may not engage in any transaction with a related person on more favourable terms or conditions than to persons who are not related to the bank. While it is not possible to list every situation that may involve more favourable treatment, such more favourable terms include, in particular:
- (a) charging lower interest on credits than would be charged to other persons;
 - (b) paying higher interest on deposits than is paid to other persons;
 - (c) accepting collateral that is of lower value, than that required of other persons;



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- (d) making a loan that would not be made to other persons, due to the level of risk in the transactions or the lower creditworthiness of the borrower;
 - (e) purchasing an asset at a price higher than would be paid to another person;
 - (f) selling an asset at a lower price than would be accepted from another person;
 - (g) investing in securities that the bank would not otherwise have invested in due to the risk level of the securities or the type of business engaged in by the related person in question;
 - (h) payment for goods or services, or leasing of property, at a price higher than would be paid to another person, or under circumstances in which no payment would be made to another person.
13. In accordance with section 73(2) of the Banking Act, a bank may not purchase a low quality asset, as defined by the BSS, from a related person, or accept a low quality asset as collateral for a loan to a related person. An asset is a "low quality asset" if:
- (a) it is classified as "substandard", "doubtful", or "loss" by the bank itself or in the most recent report of inspection by the BSS;
 - (b) it is in non-accrual status;
 - (c) payments are more than 30 days past due; or
 - (d) it has been restructured, or its terms or conditions renegotiated due to the financial difficulties or unsatisfactory financial condition of the borrower.
14. In accordance with section 73(3) of the Banking Act, a bank may not grant credit to any person where the proceeds are to be used to:
- (a) pay an obligation to a related person of the bank;
 - (b) purchase an asset from a related person of the bank; or
 - (c) invest in the business of a related person of the bank.
15. In accordance with section 73(4) of the Banking Act, where a bank enters into a transaction in violation of the requirements of that section or section 72 of the Banking Act, it must deduct the outstanding amount of any outstanding exposure to, or for the benefit of, the related person when computing the on-going capital requirements of the bank.

III. Reports of transactions with related persons

16. In accordance with section 74(1) of the Banking Act, each bank must submit a quarterly report to the BSS in the format set out in the attached Schedule on all outstanding transactions with its related persons, except for those transactions specified in section 72(3) of the Banking Act, including those undertaken or completed since its previous report. Such reports must include, at a minimum:
- (a) the name of the related person in question;
 - (b) the amount of the transaction; and



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(c) a summary of its terms and conditions.

17. The BSS may require more frequent reporting of transactions by banks with their related persons, and may require the reporting of information beyond that specified in section 16 pertaining to such transactions. Such reporting may be required from individual banks on a case-by-case basis by written notification to the bank or banks in question, or from all banks, or certain categories of banks, by regulation.

18. Each bank must maintain internal controls and records to ensure compliance with the requirements of sections 72 through 74 of the Banking Act.

Made under my hand on
This 19th day of SEPT. 2012

A handwritten signature in blue ink, appearing to read 'Kornelio', is written over the signature line of the text above.

Kornelio Koriom Mayik

Governor
Bank of South Sudan



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SCHEDULE QUARTERLY REPORT ON CREDIT FACILITIES EXTENDED TO INSIDERS

No.	Name(s) of insider borrower(s) including related interests of the borrower(s)	Status <i>Performing or non-performing</i>	Aggregate amount outstanding	Credit ceiling amount	Excess over ceiling
1	Associates				
2	Affiliates				
3	Directors				
4	Officers				
5	Substantial shareholders				
6	TOTAL				
7	Executive Directors				
8	Non-executive Directors				

Name of responsible person _____

Position _____

Signature _____

Date _____