STAATSCOURANT
Officiële uitgave van het Koninkrijk der Nederlanden sinds 1814.
Nr. 14616
19 november 2010

Rectificatie Regeling van de Minister van Financiën houdende bepalingen ter uitvoering van de Wet assurantiebemiddelingsbedrijf BES, de Wet toezicht bank- en kredietwezen 1994 BES, de Wet toezicht beleggingsinstellingen en administrateurs BES, de Wet zeggenschap in ter beurze genoteerde vennootschappen BES en de Wet toezicht verzekeringsbedrijf BES (Regeling financiële markten BES 2010)

In de Staatscourant van 1 oktober 2010, nr. 14616 is bovenstaande regeling gepubliceerd. Per abuis is er een stuk tekst weggevallen na III.3, punt 3 in Bijlage 1 van de regeling. Daarnaast is in III.3 de aanduiding ‘e’ weggevallen na onderdeel ‘d’ in punt 3.

Onderstaand vindt u de ontbrekende tekst van bijlage 1, beginnend met onderdeel III.3, 3 onderdeel ‘e’:

e. commitments such as repurchase agreements, irrevocable revolving lines of credit, underwriting (including note issuance facilities and revolving underwriting facilities), irrevocable undrawn overdraft facilities, lending commitments.

4. **‘Group of connected clients’** means two or more persons, whether natural or legal, holding exposures from the same credit institution and any of its subsidiaries, whether on a joint or separate basis, but who are mutually associated through the control of one of them by the other. Moreover, the interconnection between the persons also implies that their cumulated exposure actually represents a single risk to the credit institution, with the likelihood that if one of them experiences financial problems the other or all of them are likely to encounter repayment difficulties.
5. **‘Control’** as defined in Supervisory Regulation I and II.

III.4 Applicability and exemptions

1. Supervisory Regulation III will be applicable to all credit institutions falling under the supervision of the Bank, except for those classes of institutions having an exemption under the regulation as mentioned in paragraph III.4.2.
2. This regulation shall not apply to any branches of foreign banks which are consolidated in their home country and for which branch the Bank has received a guarantee for all liabilities.

III.5 Reporting of large exposures to the Bank

1. In the Supporting Schedules of the Chart of Accounts a report of every large exposure shall be made by the credit institution to the Bank on a periodic basis as required by the Bank.
2. An exposure of a credit institution to a client or group of connected clients is considered to be a large exposure when its value has reached or exceeded 15% of equity.
3. Regardless of whether large exposures exist in a credit institution the Bank requires the credit institution to report on the appropriate Chart of Accounts schedules a minimum of 25 exposures with the highest percentage value of equity.

III.6 Transactions with and balances due from large (connected) borrowers

1. In the determination of the interconnection between borrowers a credit institution should take at least the following criteria into consideration:
   a. common ownership of clients;
   b. common directors of clients;
   c. cross guarantees provided by one client for the other;
   d. direct commercial interdependency which cannot be substituted in the short term.
   If on the basis of these criteria interconnections between clients is observed by a credit institution, the aggregate credits of these clients should be classified as a single risk.
2. With regard to large exposures to one borrower or group of connected borrowers the following limits apply:
   a. Exposures to any one borrower or group of connected borrowers should be limited to 25% of equity;
   b. Exposures to all large borrowers may in the aggregate not exceed 600%;of equity.

III.7 Exceptions on and prior approval for large exposures

1. The aggregate exposure limit of 600% referred to in paragraph III.6.2. sub b may be exceeded only in exceptional cases with the distinct prior approval of the Bank.
2. In such cases the Bank shall require the credit institution either to increase the volume of equity or to take other remedial measures such as a substantial coverage with solid additional collateral, the value of which is not likely to deteriorate during the term of the commitment.
3. Under no circumstances will an individual exposure to one client or group of connected clients be allowed to exceed 35% of equity.

III.8 Exemptions to the large exposure rule

1. The Bank may fully or partially exempt from the application of the exposure limits in paragraph III.6. the following clients or group of connected clients:
   a. the government of the Netherlands Antilles and the Islands of the Netherlands Antilles and
   b. public authorities of certain countries to be designated by the Bank on a case by case basis.
2. Furthermore, the Bank will in principle fully or partially exempt from the application of the exposure limits in paragraph III.6:
   a. exposures secured by an explicit and irrevocable guarantee or pledge of the public authorities referred to under a) and b) above;
   b. exposures fully secured by cash deposits or securities listed on a Stock Exchange acknowledged by the Government of the Netherlands Antilles, provided that the exposure is less than the average market value in the last 12 months;
   c. interbank exposures having a maturity of six months or less.

III.9 Consolidation

The exposures of a credit institution which has one or more subsidiary credit institutions and foreign branches shall be monitored and controlled on a consolidated basis by subject credit institution.

III.10 Grandfathering provision

1. A large borrower relationship that becomes unpermitted as a result of the implementation of this regulation may continue for a period desired by the institution after consultation with the Bank, but may not continue for a period longer than 12 months after the implementation date of the regulation.
2. Existing loans maturing in a period longer than 12 months shall be respected, provided a written request is made by the institutions and which loans are found to be sound by the Bank based on the underlying documentation.

IV. Country risk policy

IV.I Scope and frequency of reporting

All banks conducting international banking business are required to file a country risk exposure and provision schedule together with its Chart of Accounts as per December 31 of each year. The Chart of Accounts as per mentioned reporting date should reflect the required country risk provisions in line with the list containing minimum provision percentages circulated by the Bank once a year.

IV.2 Presentation

1. The reporting of country risk exposures includes all foreign exposures of foreign branches and subsidiaries of a bank in consolidated form. Country risk exposures of consolidated subsidiaries in which the ownership is less than 100% shall be reported in their aggregate amount or on a *pro rata parte* basis.
2. A bank shall also report its Net Financial Interest in foreign branches and participations as a country risk exposure. The Net Financial Interest will include the assigned capital of a foreign branch and or the equity value of a foreign participation including the net balance receivable from a foreign branch or participation as per the reporting date.
3. The calculation and presentation of the country risk exposure reflects the establishment of a gross exposure, followed by allowed deductions and compensations. This will lead to the calculation of a net exposure on which the applicable provision percentage, if any, will be applied.

IV.3 Sectorial reporting

The country risk reporting system differentiates between exposures related to banks, Governments and the private sector (excl. banks). Banks include multilateral development banks and Government includes international and supra-national institutions.

IV.4 Allowed Deductions

1. In general, deductions can only be considered if the credit institution has to the satisfaction of the Bank provided evidence that the payment history of the debtor-country is adequate or that otherwise a country risk does not exist.
   In these cases, the relevant foreign assets will be deducted from the total country risk exposure amount which is the basis for provisioning.
2. There are three categories of deductions:
   a. *Guarantees and other securities.*
      These regard:
      1. i) assets covered by credit insurance;
      2. ii) back to back positions; and
      3. iii) net positions covered by guarantees and other securities, if both political and transfer risks are adequately covered (e.g. when guarantor is established outside the debtor-country or the security is located outside the debtor-country).

   b. *Trade financing.*
      As long as the payment history of a debtor-country is normal, a bank's net position due from trade financing with a maturity of one year or less shall be excluded from the country risk provision calculations by means of an allowed deduction. The Bank may allow deductions for trade-financing with a period of 3 years or less to take place provided stable conditions existed in the debtor-country for the past ten years.

   c. *Other deductions and compensation.*
      Participations in financing provided to debtor-nations primarily by multi-lateral development banks may also be excluded from the country risk provision calculation. Also, already existing provisions from prior years shall be excluded from subject calculation.

IV.5 Provisions for country risk

1. The Bank may, based on the country risk review system, deem it necessary to require specific country risk provisions for outstandings of banks in certain debtor-countries. These provisions will be put on the list to be circulated.
2. No later than December 15 of each year, the Bank will circulate among the banks the list containing the required minimum country risk provision percentages, which should be used for the calculation of the country risk provision in the Chart of Accounts. The country risk provision is a **specific** provision and should be reported as such in the Chart of Accounts. The loan should then be reported net of the amount of the country risk provision on the balance sheet.
3. The required provisions are by their nature minimum provisions and credit institutions are therefore advised that the country risk policy of the Bank does not eliminate the own responsibility of the management of an institution to evaluate its risks on an ongoing basis and to take the necessary measures, including additional provisions, to accommodate the risks.
4. Upon their request, the Bank will discuss the current provision percentages with the representative organizations of banks, before it sends the list to the individual banks.
5. For banks conducting their activities mainly in one specific 'Country Risk' jurisdiction, a special rule will be applicable with regard to the minimum provisions. To that effect a special circular will be issued by the Bank based on this Supervisory Regulation.

IV.6 Country risk provision reporting

1. The Country Risk Exposure and Provision Schedule ('CREPS') shall be submitted to the Bank by banks with international activities once a year along with the December 31, Chart of Accounts.
2. The last page of the CREPS provides a summary of the gross country risk exposures of identified countries, the allowed deductions, the net country risk exposure and the required country risk provision per country and in the aggregate.
3. The net country risk provision as per the reporting date should be reconciled with the general provisions of the Chart of Accounts and the difference between the provision as per reporting date with the prior period provision should reflect a charge (debit) or a release (credit) in the Profit & Loss account.

V. Regulation concerning General and Specific Provisions for loan losses of credit institutions

V.1 Nature of Regulation V

1. Supervisory Regulation V is aimed at the establishment of effective provisioning guidelines for credit institutions with respect to their lending. Therefore, the regulation deals with provisioning policies at two levels, general as well as specific provisions.
2. The General Provision for Loan Losses ('GPLL') covers the potential risks in the entire loan portfolio, whereas Specific Provisions for Loan Losses ('SPLL') are geared towards the setting up of appropriate provisions for identified losses in specific loans.

V.2 Legal basis, purpose and scope

1. Supervisory Regulation V is issued in pursuance of article 21, paragraph 2, sub c of the National Ordinance on the Supervision of Banking and Credit Institutions 1994.
2. This regulation governs the provisioning policies of all credit institutions under the supervision of the Bank and is applicable to all these institutions.

V.3 Definitions

For the purposes of Supervisory Regulation V, the following definitions apply:
1. **'Equity'** is defined as capital, which is calculated as the total amount of capital (class 3) plus minority interest and less intangible assets as defined in the Chart of Accounts.
2. **'Subsidiary'** is a company or credit institution in which the institution holds a majority of the shares.
3. **'Credit institution'** is an institution as defined in article 1, paragraph 1, sub c and d of the National Ordinance on the Supervision of Banking and Credit Institutions of 1994.
4. **'Net loan'** is calculated as the gross loan amount minus compensations (as per Appendix A of the General Guidelines of the Chart of Accounts) and SPLL.
5. **'Consumer installment loan'** is defined as a loan (closed or open-end credit) extended to individuals for household, family or other personal expenditure, rather than for business purpose.
6. **'Restructured troubled loan'** is defined as a loan (either a consumer installment or other type of loan) of which the credit institution has granted the borrower, for economic or legal reasons relating to the borrower's financial difficulties, a concession (favorable terms) that the credit institution would not otherwise consider. The concession should be in writing and may include the modification of terms, such as a reduction of the originally agreed interest and or extending the loan's maturity, a reduction in the remaining principal amount, or the transfer of real estate from the borrower to the credit institution, receivables from third parties, other assets, or an equity interest in the borrower in full or partial satisfaction of the loan.

V.4 Provisioning policy concerning the GPLL

1. Credit institutions should set up the GPLL to provide for potential, but as yet unidentified or unexpected losses in their loan portfolio. Branches of foreign banks which are consolidated in their home country and for which branch the Bank has received a head-office guarantee for all liabilities are exempted from this requirement.
2. Every institution under the supervision of the Bank should maintain appropriate policies to set up the GPLL and to determine the adequacy thereof.
3. The adequacy of the GPLL should be reviewed by the institution periodically, at least once a year[1], in relation with the level of the credit risk and the equity position of the institution, because prudent banking policy requires a GPLL level that sufficiently accommodates the inherent credit risks affecting a loan portfolio as a whole.
4. In light of the above, the Bank maintains the policy that under normal economic circumstances and market conditions, with no substantial concentrations of risks and an overall soundness of the loan portfolio, the total minimum required GPLL should be calculated as the sum of the following:
   (i) 1.0% of the total net loans to banks;
   (ii) 1.0% of the total net loans to debtors rated A- or better[2];
   (iii) 2.0% of the total net loans to other debtors.
5. However, under certain circumstances for a particular institution, a higher GPLL percentage may

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1 Credit institutions that have received a rating of 4 or 5 for asset quality in the last examination report of the Bank must review the adequacy of their GPLL at least twice a year. The external auditors should verify and inform the Bank whether the review(s) took place.

2 Ratings must be provided by recognized external credit assessment agencies, such as Standard & Poor's or Moodies.

be necessary. Circumstances that may warrant a higher provision percentage are but not limited to, the following:

a. depressed conditions in one or more sectors of the economy in which the institution operates;
b. the level of unsecured loans in relation to the total loan portfolio and equity;
c. the number and size of large loans; and
d. the overall condition of the loan portfolio which is measured by the extent of loans classified as substandard, doubtful or loss.

6. The management of each credit institution is responsible for assessing the adequacy of its GPLL, taking into consideration the level of risk in the portfolio and the circumstances under which the institution operates, as specified in paragraph V.4.-5. If required, the Bank will request the credit institution to maintain a higher GPLL percentage than the minimum specified in paragraph V.4.-4.

V.5 Provisioning policy concerning the SPLL

1. Each credit institution should review its total loan portfolio periodically, at least once a year[3], and have in place procedures and systems for identifying, measuring and monitoring (potential) problem credits on an ongoing basis[4] in order to maintain their SPLL in line with the policies mentioned below.
2. Credit institutions should at least adhere to the Bank's SPLL classification and provisioning policies described in the paragraphs V.5.A and V.5.B.
3. With respect to the SPLL and the carrying loan value, credit institutions should identify and recognize loans or a collectively assessed group of related loans, of which it is probable that the institution will not be able to collect, or of which there is no longer reasonable assurance that the institution will collect the full amount due, according to the contractual terms of the loan agreement.
4. As part of its on-site examinations, the Bank performs a credit review at the credit institutions which results in the classification and provisioning of the loan portfolio of the institution.
5. In its credit review, the Bank distinguishes two types of collateral. Firstly, 'hard collateral', such as 1st mortgage, cash and marketable securities held by the credit institution, guarantees issued by the Governments of the Kingdom of the Netherlands, and bank guarantees by banks' incorporated in the Kingdom of the Netherlands. Secondly, 'soft collateral', such as personal or corporate guarantees, and 2nd and 3rd mortgage if the 1st mortgage is held by another unrelated institution or company. In general, hard collateral will be taken into account by the Bank to its full extent while soft collateral will be reviewed on a case by case basis.

V.5.A Provisioning policy concerning SPLL, except for consumer installment loans

1. **Credit reviews**
   The Bank's credit reviews of subject loans results in the following classifications: Satisfactory, Special Mention, Substandard, Doubtful and Loss.
2. **Loan classifications and provisioning**
   The description of the five loan classifications and the extent of specific provisions required in each case is as follows:
   a. **Satisfactory**
      Loans classified Satisfactory are loans that reflect no weaknesses. These loans are performing according to the loan agreement and are well protected by the current sound worth and paying capacity of the borrower or by the collateral pledged. The Bank does not require a specific provision for these loans.
   b. **Special mention**
      Loans classified Special mention are loans that currently do not expose the bank to enough risk to warrant an adverse classification, but which do possess credit deficiencies requiring management's close attention. Failure to correct deficiencies could result in greater credit risk in the future. Ordinarily, such borderline credits have characteristics that could be remedied with timely corrective action by management. Often in credit lines warranting Special Mention, it is the bank's weak origination and/or servicing policies which constitute the cause for criticism. The Bank does not require a specific provision for these loans.
   c. **Substandard**
      Loans classified Substandard are those loans which are inadequately protected by the current sound worth and paying capacity of the borrower or by the collateral pledged, if any. These

[3] Credit institutions that have received a rating of 4 or 5 for asset quality in the last examination report of the Bank must review their total loan portfolio and aline their SPLL more than twice a year. The external auditors should verify and inform the Bank whether the reviews took place.

[4] On an ongoing basis, credit institutions should identify and select (potential) problem loans that require individual further monitoring. The selection should be risk orientated, taking into consideration e.g. the condition of the debtor and or the sector in which it operates. These loans must be reviewed more than once a year.

loans have a well-defined weakness or weaknesses that jeopardize the liquidation of the debt. They are characterized by the distinct possibility that the bank will sustain some loss if the deficiencies are not corrected. The required specific provision is 0%-25% of the loan after considering amongst others the value of collateral pledged and depending on the severity of the weaknesses.

d. **Doubtful**
Loans classified Doubtful have all the weaknesses inherent in those classified Substandard with the added characteristic that the weaknesses make collection or liquidation in full highly questionable and improbable on the basis of currently known facts, conditions and, values. Therefore, a specific provision of at least 50% of the loan, after considering amongst others the value of collateral pledged, should be maintained by the credit institution.

e. **Loss**
Loans classified Loss are considered uncollectible and of such little value that their continuance as bankable assets is not warranted. This classification does not mean that the loan has absolutely no recovery or salvage value, but rather that it is not practical or desirable to defer writing off these basically worthless assets even though partial recovery may be effected in the future. The required specific provision for such loans is 100% of the loan, after considering amongst others the value of collateral pledged.

3. **Treatment of mortgages**
Loans may be reported as mortgages in the Chart of Accounts, if there is an independent appraisal of the underlying property and the outstanding balance of the loan does not exceed 70% of the appraised market value. In case a borrower is 3 months in arrears with payments (either principal or interest) an updated appraisal report, by an independent appraiser, must be made within two months. If the related appraisal report is not older than 3 years, an appraisal letter or so called ‘waardebrief’ is acceptable. However, in case of a further increase in arrears to 5 months, a complete updated appraisal report is required within two months.
In general the classification and provisioning treatment explained in paragraph V.5.A.2 should be applied to mortgage loans. In addition, a classification as substandard, doubtful, or loss should apply in those cases where the borrower is 3 months or more in arrears with payments. The required provision percentages in these cases should be calculated after considering the execution value of the asset securing the loan.

4. **Collateral value of inventory and accounts receivables**
If inventory and accounts receivables are considered as collateral, an updated listing of their collateral value should be kept by the institution on a quarterly basis; the reliability of this listing must not be questionable. In circumstances warranting an earlier update, such as credit extension to borrowers whose business operates in a depressed sector as mentioned in paragraph V.4.-5, the collateral values should be updated more frequently, e.g., monthly or bi-monthly. Hence, the collateral value should be determined prudently.

V.5.B Provisioning policy concerning SPLL for consumer installment loans

1. **Credit reviews**
The Bank takes a different approach in the review, appraisal and classification of consumer credit, compared to the approach followed with respect to the other loans as explained in the previous paragraph. This difference is based on the following:
   - in general the amount of specific provision required by the Bank for non-consumer credit depends on the classification of the loan based upon among other things the net worth and paying capacity of the borrower and the collateral pledged;
   - however, sound consumer installment credit is generally based on the borrower’s ability to repay, with less consideration for collateral and net worth. The ability to repay such loans is largely measured by the borrower’s level of income in comparison to its current debt obligations;
   - consumer loans are typically small in size and large in number. It is therefore, not practical to investigate the creditworthiness of each borrower.

2. **Loan classifications and provisioning**
The loan classification of and extent of specific provisions for consumer loans should be made according to the following criteria:

	Days in arrears Required specific provision	Classification (% of outstanding balance)
	30 to 89 days mention (1 to 3 months)	Special none
	90 to 119 days Substandard (3 to 4 months)	25%

	Days in arrears Required specific provision	Classification (% of outstanding balance)
	120 to 179 days Doubtful (4 to 6 months)	50%
	180 days or more Loss (6 months or more)	100%

The outstanding balance to calculate the required specific provision is calculated as the gross outstanding balance minus applicable compensations (as per Appendix A of the General Guidelines of the Chart of Accounts) and optional[5], minus the collateral value of the relevant car as specified below.

3. **Collateral value of relevant car**
   If a car loan is:
   a. for the specific purpose to buy a car, and;
   b. the car is not older than 3 years; and
   c. the car serves as security only for this loan,
   than the following collateral value of the relevant car qualifies to calculate the outstanding balance mentioned in paragraph V.5.B.2:
   (i) up to 60% of the lower of the listing price/ or market value of the car can be considered and discounted as collateral value during the first year of the loan agreement;
   (ii) up to 40% of the lower of the listing price/ or market value of the car can be considered and discounted as collateral value during the second year of the loan agreement;
   (iii) up to 20% of the lower of the listing price/ or market value of the car can be considered and discounted as collateral value during the third year of the loan agreement;
   (iv) no collateral value may be considered and discounted after the third year of the loan agreement.
4. **Aging record**
   In order to qualify for the discount mentioned under V.5.B.3, the credit institution is obliged to maintain readily available detailed records of the relevant car loans. Furthermore, each credit institution should keep an updated aging record of all its car loans[6], and a separate aging record for all other consumer installment loans, based on the number of days in arrears as specified in the above paragraph V.5.B.2. No discount will be allowed if these requirements are not met.

V.5.C Provisioning policy concerning restructured troubled loans

1. **Credit reviews**
   The Bank will review the credit institutions records of restructured troubled loans and other information to determine if the records are complete.
2. **Loan classifications and provisioning**
   A restructured troubled loan should be classified, according to the classification criteria in paragraphs V.5.A and V.5.B. Restructuring does not improve the classification other than when it meets the criteria to remove it from the record of restructured loans. Therefore, these loans should remain in the same classification category[7] prior to their restructuring. If the loan quality of the restructured loan deteriorates further, its classification should be further adjusted (lowered).
   The specific provision applicable to the classification category should be applied.
   A loan which meets the following criteria is not considered a restructured troubled loan anymore, and should be removed from the record of restructured troubled loans:
   a. the borrower has paid the full amount of the rescheduled contractual principal and interest payments for a straight period of at least six months since restructuring; and
   b. the borrower has paid all overdue amounts.

V.5.D Loan data

1. Each credit institution should maintain for each loan an adequate loan file, which should include all relevant and up to date information, amongst others the loan agreement, loan analysis, collateral documentation, insurance information, etc. The loan file should be well structured and easily accessible. Furthermore, each institution should maintain adequate and easily accessible

[5] The application of the discount of the collateral value of the relevant car is not mandatory. The credit institution must determine whether it considers it beneficial to opt for the discount. An institution which opts to apply the discount must follow the treatment explained in paragraphs V.5.B.3 and 4.
[6] This aging record or a separate overview should also at least include the percentage and amount of collateral value of the car whose collateral value is discounted as specified in paragraph V.5.B.2.
[7] The categories mentioned in paragraph V.5.A in case of non-consumer installment loans, and the categories mentioned in paragraph V.5.B in case of consumer installment loans.

records as to the borrowers that can be considered related or connected[8] pursuant to Supervisory Regulation III.

2. Each credit institution should keep a separate updated record (listing) of all restructured troubled loans with relevant information[9] of each restructured troubled loan, and a separate updated record of all loans for which a provision has been set-up with relevant information[10] of each individual loan provided for.

[8] At least the name of the borrower, the account number, outstanding amount and the type of connection.
[9] At least the name of borrower, the account number, the outstanding amount, the type of loan, the date of restructuring, the overdue amount and the SPLL as per reporting date.
[10] At least the name of borrower, the account number and outstanding amount, the type of loan and the SPLL as per reporting date.