

THE BUILDING SOCIETIES REGULATIONS, 2019  
(Under Section 104)

*Arrangement of Regulations*

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PART I  
PRELIMINARY

*Citation and commencement*

- 1. These Regulations may be cited as the Building Societies Regulations, 2019 and shall come into force on publication in the Gazette.

*Interpretation*

- 2. (1) In these Regulations, unless the context otherwise requires-

“the Act” means the Building Societies Act, 2019;

“basic financial services” includes the accepting savings from a building society members and making loans to such members;

“doubtful loans” means loans not adequately protected by the current repayment capacity and the principal or interest have remained un-paid between one hundred and eighty one to three hundred and sixty days or where seven to twelve instalments have remained outstanding;

“guidelines issued by FSRA” means guidelines issued by the Financial Services Regulatory Authority under section 33 of the FSRA Act;

“FSRA Act” means the Financial Services Regulatory Authority Act, 2010;

“loss loans” means loans which are considered uncollectible or of such little value that their continued recognition as receivable assets is not warranted, not adequately protected and have remained un-paid for more than three hundred and sixty days or where more than twelve instalments have remained outstanding;

“non-basic activities” means activities that a building society may not engage in without prior approval of the Authority:

“performing loans” means loans which are well documented and performing according to contractual terms;

“quarter”, in relation to a calendar year, means a period of 3 months ending on the last day of March, June, September or December in that calendar year;

“substandard loan” means loans not adequately protected by the current repayment capacity and the principal or interest have remained un-paid between thirty one to one eighty days or where two to six instalments have remained outstanding;

“related parties” includes a person that is a blood relative and any other person that is closely associated with the other in such a manner that would compromise the exercise of independence;

“watch loans” means loans whose principal or interest have remained un-paid for one day to thirty days or where one instalment is outstanding.

(2) Any word or expression used in these Regulations which is defined in the Act or the FSRA Act shall, unless the context otherwise requires, have the same meaning as in those Acts.

#### *Application of Regulations*

3. These Regulations apply to a building society applying for registration or licensing to do building society activities.

#### *Compliance with these Regulations*

4. (1) The board is responsible for ensuring compliance with these Regulations and this includes disclosing through the board’s annual report to the membership on whether it has complied with all the provisions of these Regulations.

(2) Where the board has not complied with any of the provisions of these Regulations, the board shall spell out the reasons why it was unable to do so and outline the measures it is taking to ensure compliance in the future.

(3) Failure to comply with these Regulations without plausible reasons may attract administrative sanctions in terms of the FSRA Act.

(4) These Regulations are not exhaustive, and the board may enrich a building society practices over and above these Regulations provided the same is in the best interest of the members and the building society.

## PART II REGISTRATION AND LICENSING

#### *Application for registration*

5. (1) An application for registration as a building society shall be lodged with the Authority in the manner and form as prescribed by the Authority.

(2) The application for registration shall be accompanied by-

(a) two copies of the rules of the building society;

(b) a register of the members of the building society;

(c) the names and addresses of the directors of the building society;

- (d) the prescribed application fee; and
- (e) such other information as may be specified by the Authority.

(3) The Authority shall make a decision within ninety days of receipt of an application for registration received in terms of sub-regulations (1) and (2).

(4) Where the Authority, after receipt of an application, requires an applicant to furnish it with further information, the calculation of the ninety days referred to in sub-regulation (3) shall be reckoned from the date when the Authority received such further information.

#### *Prohibition from engaging in financial services*

6. A building society shall not engage in any of the regulated activities, as stipulated in section 35 of the FSRA Act, without obtaining a licence to do so from the Authority notwithstanding its registration.

#### *Application for a licence*

7. (1) A registered building society that proposes to provide financial services shall lodge an application, together with any relevant annexure and information as may be specified by the Authority, with the Authority in the manner and form as may be prescribed by the Authority.

- (2) The Authority may refuse to accept any form if it is not-
- (a) completed in a manner prescribed by the Authority; or
  - (b) accompanied by the relevant fee referred to in regulation 10.

#### *Minimum requirements for an applicant*

8. A building society shall, at the minimum, satisfy the following requirements for it to be considered for a licence-

- (a) be registered under the Act;
- (b) demonstrate capacity to meet the minimum requirements as stipulated in these Regulations;
- (c) have a sound business plan and strong financial prospects;
- (d) be managed and controlled by a fit and proper board of directors and management;
- (e) have documented internal control policies and processes that are commensurate with its size, complexity and risk profile;
- (f) have appropriate operational infrastructure and financial management system commensurate with its operations and size;
- (g) undertake to pay the supervisory levy imposed by the FSRA in terms of section 37(3)(f) of the FSRA Act; and
- (h) demonstrate capacity to comply with the FSRA's reporting requirements on a continuous basis such as submission of periodic returns, audited financial statements and such other information as may be required by the Authority.

*Information to be attached to an application*

9. (1) An application for a licence, under this Part, shall be accompanied by-
- (a) a board resolution to apply for a licence;
  - (b) a certified copy of registration certificate issued under the Act;
  - (c) certified copy of the rules;
  - (d) key internal policy documents covering the following topics-
    - (i) board charter;
    - (ii) management of conflicts of interest;
    - (iii) restrictions on transactions with related parties;
    - (iv) risk management;
    - (v) credit/ loans, loan loss provisioning;
    - (vi) concentration risk/large exposures;
    - (vii) capital adequacy;
    - (viii) savings;
    - (ix) investment;
    - (x) liquidity;
    - (xi) anti-money laundering and prevention of terrorist financing; and
    - (xii) business continuity (including disaster recovery) plan;
  - (e) an outline of the proposed organisational structure, including the names, and responsibilities of proposed senior management;
  - (f) business profile and plan including a brief history of the applicant and an outline of any existing activities (which would not be financial services as these are not permitted without a license);
  - (g) description of ownership rules/structure;
  - (h) financial projections;
  - (j) capital (classes of shares, etc.);
  - (k) details of proposed information and accounting systems (including any outsourcing of data processing and other back office functions) and evidence that, from the commencement of operations, information and other systems will be capable of producing all required statutory and prudential returns in an accurate and timely manner; and
  - (l) any other documents that the Authority may require in the consideration of the application.

(2) In addition to the requirements stipulated in sub-regulation (1) the applicant for a licence shall ensure that the board members and senior management meet the fit and proper tests specified in Part IV.

(3) The board members and senior management shall complete and submit, with the licence application, such fit and proper test form in the manner as may be prescribed by the Authority.

### *Payment of fees*

10. (1) Subject to this regulation, all payable fees shall be specified by the Authority from time to time.

(2) Payment of fees may be made through such electronic funds transfer system as the Authority may designate from time to time, whereby payment is effected by directing the transfer of funds electronically from the bank account of the applicant to a bank account designated by the Authority.

(3) Where a licensee is licensed to carry on business in more than one area, the amount of the licence fee payable to the Authority shall be the sum of the fees specified by the Authority for the areas that the licensee is licensed to carry out business.

### *Issuance of a licence*

11. (1) The Authority may issue a licence to an applicant where all relevant requirements of the FSRA Act, the Act and these Regulations have been met.

(2) In granting a license, the Authority may impose appropriate licence conditions, as permitted under the FSRA Act.

(3) In assessing a licence application the Authority shall conduct an on-site assessment and on-going communication regarding areas to be addressed prior to issuance of licence.

### *Form and display of licence*

12. (1) A licence granted by the Authority shall be in the manner and form as may be prescribed by the Authority.

(2) Every licensee shall display the licence at all premises in which the licensee transacts with the public the business authorised by the licence.

(3) The requirement in sub-regulation (2) shall not be taken to be satisfied unless the licence is displayed in such a manner as to be readily visible to the public.

(4) Where the licensee has more than one office, a certified copy of the licence shall be issued by the Authority upon payment of the certification fee prescribed by the Authority.

### *Conditions of a licence*

13. It shall be a condition of every licence that-

- (a) the licence shall be personal to the licensee and shall not be transferable;
- (b) the licensee shall-
  - (i) upon the making of a decision to make an alteration on any matter in respect of which the applicant has supplied or was required to supply information to the Authority in the course of making the application for that license, give prompt written notice to the Authority of any such proposed alteration;
  - (ii) immediately after the occurrence of any event which the licensee knows or ought to know, affects or may affect in any material respect, any matter in respect of which the licensee has supplied or was required to supply information to the Authority in the course of making the application for that licence, give written notice to the Authority of any such event;

- (iii) immediately upon the occurrence of any change in the management staff or board of directors of the licensee, give written notice to the Authority of any such change;
- (c) the licensee shall comply with any directions which may be given by the Authority in respect of a proposed alteration or occurrence of the event or change notified to the Authority under sub-regulation (1) (b);
- (d) the licensee shall not carry on, or hold itself out as carrying on, any business other than that permitted by the licence; and
- (e) the licensee agrees to pay timely the supervisory levies imposed by FSRA under section 21 of the FSRA Act.

#### *Communication with the Authority*

14. A licensee shall communicate to the Authority notice of-

- (a) any change in the principal place of business; and
- (b) cessation of business,

in the manner and form as may be prescribed by the Authority.

### PART III PERMISSIBLE ACTIVITIES

#### *Policy on permitted activities*

15. (1) The Board of a Building society shall be responsible for the directing activities of a building society by developing a policy on permitted activities of a building society.

(2) The Board shall deposit with the Authority such policy on permitted activities of a building society.

#### *Basic activities of building society*

16. (1) The main focus of a building society shall be provide basic financial services to members such as accepting of savings and mortgage lending.

(2) A building society shall not extend its activities beyond what is provided for in terms of sub-regulation (1) without first seeking and obtaining the approval of the Authority.

(3) In granting such approval the building society shall convince the Authority of the reason for such activities and that they do not create threats to the prudential safety of savings of the members.

(4) The Authority may authorise and monitor a building society to carry out the following basic financial activities-

- (a) issuing of shares to members;
- (b) acceptance of savings from members;
- (c) mortgage lending to members;
- (d) advancing of loans to members; and
- (e) investing surplus cash in safe and liquid assets in accordance with these Regulations and guidelines.

#### *Other activities*

17. (1) Where a building society seeks to engage in other activities, other than those

specified in regulation 16, the building society shall apply to the Authority for permission to do so in the manner as may be prescribed by the Authority.

(2) In making such an application a building society shall-

- (a) describe the proposed product or service;
- (b) outline the business case for the proposal;
- (c) include a risk assessment showing the relevant risk that has been identified;
- (d) proof that the board has approved the proposed product or service; and
- (e) controls to manage risks arising from those products and services.

## PART IV GOVERNANCE

### *Board of a building society*

18. (1) A building society shall be governed by a board, in terms of section 49 of the Act, which shall provide an oversight function over the building society and ensure that policies for the effective management of the building society are in place.

(2) A building society shall have, in accordance with section 49 of the Act, such sub-committees as may be necessary for the effective discharge of the board's functions and powers.

### *Composition of board*

19. The building society board shall be made up of not less than three (3) and not more than seven (7) members elected at the building society's AGM in terms of its rules.

### *Term of office of the board*

20. A member of the board shall be in office for a period not exceeding three (3) years and shall be eligible for re-election.

### *Power to establish sub-committees*

21. (1) The board may establish such sub-committees of the board as may be necessary and such sub-committees shall be in office for the same period as the board.

(2) A sub-committee established in terms of sub-regulation (1) shall be made up of not more than three (3) members.

(3) A sub-committee of the board shall facilitate the work of the board by enabling the board to tackle key areas of the business of the building society more effectively.

### *Board remuneration*

22. A member of the board or sub-committee of the board shall be entitled to be paid such re-imbursive allowance to cater for expenses incurred by such a member in exercising the functions as a member of the board or sub-committee.

### *Function of the board*

23. (1) In the discharge of its functions the board shall ensure that-
- (a) all policy proposals and amendments are formally approved by members at the General Meetings through the budget approval process and are recorded in a formal resolution; and
  - (b) the building society's annual report contains a statement of the remuneration policy and details of the remuneration and benefits of directors and senior management.
- (2) A member of the board shall devote his time and resources by attending meetings regularly and participating in all exercises that are beneficial to the general well-being of the building society.
- (3) The board shall undertake a formal annual evaluation of its performance and that of employees of the building society.

### *Meetings and agenda of the board*

24. (1) Members of the board shall be timely informed of a meeting of the board and the agenda of a meeting and reports shall be transmitted to the members at least seven(7) days before a scheduled meeting except where there is an emergency.
- (2) A board meeting shall have the following standard agenda items-
- (a) statement of financial position and performance;
  - (b) capital adequacy;
  - (c) liquidity and cash flow projections;
  - (d) investments; and
  - (e) credit portfolio performance together with delinquency analysis.

### *Conflict of interest*

25. (1) The board of directors and employees of the building society shall have a duty to ensure that professional and ethical standards, and corporate values are adhered to in all their dealings as such.
- (2) An employee or director of a building society shall identify all potential conflicts between his interests and the interests of the building society and shall take necessary steps to ensure that his role is not influenced by any other interest.
- (3) A director or employee of a building society who is a party to a contract or proposed contract with the building society, shall disclose in writing to the building society the nature and extent of that interest.
- (4) A building society shall have an approved policy governing management of conflicts of interest at all levels of the building society.
- (5) The policy shall ensure that conflicts are identified and managed appropriately, and a copy of the policy shall be submitted to the Authority.
- (6) The Authority shall have power to intervene where there is a breach of such a policy.

### *Board charter*

26. (1) The board shall have a formal Charter that sets out the roles and responsibilities of the board.
- (2) The building society shall file a copy of the Charter with the Authority.

(3) The board, in fulfilling its functions, may delegate its authority to management to act on behalf of the board with respect to certain matters, as determined by the board.

(4) The delegation of authority shall be clearly set out and documented by the board.

(5) The board shall put in place effective mechanisms for monitoring the exercise of the delegated authority.

(6) The board shall remain accountable for functions delegated to management.

(7) The governance structure of building society shall clearly define the appropriate separation of duties and responsibilities, particularly the roles of the committees and those of management.

### *Responsibilities of the board*

27. (1) The board shall exercise all the powers of the building society other than those reserved to members in a general meeting by the relevant law and by-laws.

(2) The main responsibilities of the board include the following-

(a) convening general meetings as provided for in the by-laws;

(b) reporting to the annual general meeting;

(c) making available management reports, and audited financial statements of the building society;

(d) ensuring that adequate and effective internal control systems, and policies are put in place and taking all necessary measures to safeguard the assets of the building society;

(e) keeping accurate accounts of financial records in accordance with applicable laws and best practices;

(f) establishing board sub-committees and monitoring their activities;

(g) approving and reviewing overall business strategies, significant policies and the structure of the building society;

(h) supervising management in the execution of approved plans;

(i) appointing, appraising, and disciplining management;

(j) proposing, to general meeting, the rate of interest and other product costing;

(k) implementing resolutions taken by the general meeting; and

(l) ensuring that building society complies with its by-laws, policies, relevant laws, guidelines and these Regulations.

### *Annual general meeting*

28. (1) A building society shall convene an Annual General Meeting (AGM) once a year in accordance with the rules of the building society.

(2) Where a building society is to hold an AGM the building society shall notify the Authority, in writing, at least two weeks before the date of the AGM of such meeting.

(3) The building society shall have had an audit of its annual financial statements and these financial statements shall have been signed off by the Authority, before calling for an AGM.

(4) The board and management shall, at least ten (10) working days before the proposed AGM, furnish the Authority with-

(a) audited financial statements and management letter; and

(b) annual report from the board to be presented to the AGM.

### *Special general meeting*

29. Notwithstanding the provisions of regulation 28, a building society may call a special general meeting, convened for special reasons in terms of its rules.

### *Fit and probity of board and senior management*

30. (1) A building society shall be managed by a fit and proper person who shall meet such fit and proper requirements as prescribed by the Authority.

(2) In assessing if the person meets the fit and proper requirement the Authority shall consider-

- (a) the financial status or financial soundness;
- (b) ability (competency and capability) to perform the proposed function efficiently and honestly;
- (c) academic credentials;
- (d) reputation, character, integrity;
- (e) reliability; and
- (f) any other related factor to the fit and probity of elected board members,

of that person.

### *Election policy*

31. (1) The board shall develop an election policy to ensure that elective positions are occupied by fit and proper persons and such persons meet the Fit and Proper Guidelines and Rehabilitation Criteria as prescribed by the Authority.

(2) The election policy shall clearly state the eligibility criteria and election procedures to be followed when elections are conducted.

(3) The elected members shall be required to complete such forms as may be prescribed by the Authority and which shall be accompanied by-

- (a) certified copy of the national identity document;
- (b) proof of residence;
- (c) signed and up-to-date curriculum vitae;
- (d) police clearance report;
- (e) ITC credit clearance certificate;
- (f) tax compliance certificate;
- (g) documentary evidence confirming that the person is a member of the building society and is in good standing; and
- (h) any other document that the Authority may require.

(4) Such elected person shall not be permitted to assume office without the written approval of the Authority.

### *Appointment of chief executive officer and senior management*

32. (1) The board shall be responsible for the appointment of a chief executive officer or manager of the building society and further participate in the recruitment of the senior management of the building society.

(2) In exercising the powers in sub-regulation (1) the board shall ensure that the appointments are made through a competitive selection process and in accordance with the objectives and recruitment policies of the building society.

(3) The board shall prepare a detailed employment contract and job description for the chief executive officer or manager including the key result and key performance indicators.

(4) A building society shall not allow a chief executive officer or manager and other senior management officers to assume the responsibilities of their offices without written approval of the Authority.

(5) The chief executive officer or manager and senior management shall be required to sign such forms as may be prescribed by the Authority before assuming their offices.

#### *Functions of chief executive officer*

33. The functions of a chief executive officer or manager shall include-

- (a) providing leadership to the employees;
- (b) implementing the decisions of the board;
- (c) ensuring effective management of the building society business in the best interest of the building society and other stakeholders;
- (d) ensuring the development and implementation of business or strategic plans;
- (e) developing operational plans and budgets for approval by the board;
- (f) ensuring compliance with the laws of the country;
- (g) developing and recommending policies and plans for the approval of the board and AGM;
- (h) developing management succession plans for the approval of the board and AGM;
- (i) ensuring that there is effective communication between the board and management;
- (j) preparing, for approval by the board, of quarterly and monthly reports for the Authority;
- (k) preparing and submitting monthly management reports for the executive committee of the building society, covering operational areas such as loan book performance, statement of comprehensive income, cash flows and budgets.

## PART V

### TRANSACTIONS WITH RELATED PARTIES

#### *Control of transactions*

34. (1) The board of a building society shall implement effective arrangements for controlling transactions with the related parties and in doing so, the board shall develop a policy that-

- (a) includes a definition of who a related party is;
- (b) imposes obligations on the board, management and staff to declare relationships with related parties;
- (c) restricts transactions with related parties; and
- (d) ensures appropriate reporting of transactions with related parties.

(2) The building society shall file the policy with the Authority.

PART VI  
CAPITAL ADEQUACY MANAGEMENT

*Sufficient level of capital*

35. (1) The board of a building society shall be responsible for ensuring that there is, at all times, a sufficient level of capital to protect the members' funds.

(2) The board shall develop and file with the Authority a policy on the management of capital adequacy for the building society.

*Calculating institutional capital*

36. (1) The board shall ensure that the funds of members of a building society are adequately protected and shall maintain a minimum adequacy ratio as set by the Authority.

(2) In determining whether or not an item qualifies to be included in the computation of the institutional capital, the Authority shall consider the permanency and loss absorbency ability of the item.

(3) The criteria used to determine whether the requirement stipulated in sub-regulation (2) is satisfied by the item, the Authority shall consider, inter alia, if the-

- (a) instrument is permanent to the building society;
- (b) instrument cannot be used as a security against a member's loan;
- (c) building society has not created an expectation, at issuance or in the by-laws, that the instrument may be bought back, redeemed or cancelled; and
- (d) instrument qualifies to be classified as a capital instrument in terms of international standards.

*Institutional capital*

37. (1) The items that, generally qualify to form part of a building society's institutional capital include-

- (a) current year surplus;
- (b) retained surplus;
- (c) statutory reserve;
- (d) general reserves;
- (e) grants and donations; and
- (f) re-valuation reserves, limited to not more than 20% of institutional capital, subject to the prior approval of the Authority.

(2) The revaluation reserve, referred to in sub-regulation (1) (f) shall be limited to immovable property.

(3) The items that do not meet the criteria to be considered to form part of a building society's institutional capital include;

- (a) intangible assets;
- (b) accumulated losses;
- (c) investment in subsidiaries; and
- (d) equity instruments in other financial institutions.

*Minimum capital adequacy ratio*

38. (1) The board shall ensure that the building society maintain capital buffers that are commensurate with the size and risk profile of the building society.

- (2) A building society shall, at all times, maintain-
- (a) core capital of not less than E.. million Emalangeni;
  - (b) core capital of not less than ten percent of total assets;
  - (c) an institutional capital of not less than 8% of its total assets; and
  - (d) capital of not less than eight percent of total deposits.

(3) The board shall report the actual capital adequacy ratio, to the Authority, in such manner and form as may be prescribed by the Authority.

#### *Non compliance*

39. Where a building society fails to comply with the requirements set out in regulation 38 the Authority may take any necessary action, against the building society, which may include-

- (a) suspending payments of member dividends;
- (b) suspending payment of interest on savings; and
- (c) placing the building society under administration or curatorship.

#### *Redemption or repurchases of member shares*

40. Where a building society's capital is below acceptable regulatory standards, a building society shall not repurchase shares of a resigned member or that loss shall be pro-rated in accordance with loss or deficiency incurred by the building society.

## PART VII RISK MANAGEMENT

#### *Risk management framework*

41. (1) The board of a building society shall be responsible for implementing an adequate framework for managing the risks incurred by the building society.

(2) A building society shall provide the Authority, on an annual basis, with an updated written description of its risk management framework.

- (3) The risk management framework shall-
- (a) be reviewed at least annually;
  - (b) be comprehensive enough to capture all material risks a building society is exposed to;
  - (c) at a minimum, cover the following risks categories-
    - (i) strategic;
    - (ii) credit;
    - (iii) operational;
    - (iv) liquidity;
    - (v) money laundering; and
    - (vi) compliance.

(4) "Risk management" means a process applied to identify, measure, control and monitor exposure to loss.

*Effective risk management*

42. An effective risk management framework shall be characterised by-

- (a) an active board and senior management oversight;
- (b) an approved risk management strategy that describes the key elements of the risk management framework;
- (c) adequate policies and procedures covering applicable risk topics such as credit risk, liquidity risk, operational risk and market risk (where applicable);
- (d) adequate management information systems;
- (e) comprehensive internal controls; and
- (f) a well-resourced risk management function that is independent from the business function.

*Statement of compliance*

43. (1) A building society shall furnish the Authority with a signed compliance declaration annually in the manner and form as prescribed by the Authority.

(2) At the minimum the signed compliance declaration, referred to in sub-regulation (1), shall indicate how the building society is complying with its risk management framework.

PART VIII  
CREDIT RISK MANAGEMENT

*Credit risk management framework*

44. (1) The board and management of a building society shall ensure that there is in place an adequate credit risk management framework to identify, measure and manage credit risk.

(2) The board of a building society shall be responsible for implementing an adequate framework for managing the credit risks incurred by the building society.

(3) The board shall conduct regular reviews of a building society credit risk management framework as and when the environment dictates, to comply with prevailing credit laws and regulations.

(4) The credit risk management framework shall include policies, procedures and systems covering-

- (a) a well-resourced independent credit risk management function;
- (b) criteria for approval of credit, persons responsible for approving and processes to ensure the criteria are met;
- (c) limits on large exposure and portfolio concentrations;
- (d) identification and measurement of impaired loans in a timely manner;
- (e) criteria for placing loans a non-accrual of interest;
- (f) adequacy of provisions and reserves covering existing and estimated future credit losses and the timely establishment of such provisions and reserves;
- (g) write off of uncollectable loans; and
- (h) production of data required for assessing the credit risk exposure.

*Prudent and productive purposes*

45. (1) A building society shall ensure that loans taken by members are used for prudent and productive purposes and that loans are collected in accordance with the by-laws, loan policy and the Credit and Consumer Act.

(2) The board, through its designated committee shall ensure the adherence to the provisions of sub-regulation (1).

*Manner of loan approval*

46. When approving a loan, the responsible authority shall have regard to the-

- (a) building society's policies and procedures;
- (b) member's debt repayment history;
- (c) member's financial means and prospects; and
- (d) member's existing and future financial obligations.

*On-going monitoring and collections policy*

47. (1) The board shall ensure that a building society has a loan collection policy in place and designated officers responsible for monitoring, reviewing and collecting delinquent loans.

(2) The officers referred to in sub-regulation (1) shall be independent from the credit appraisal and approval function of the building society.

*Avoidance of conflict of interest*

48. (1) An employee or a member of the board shall not be present or participate in a meeting where his application for a loan is considered.

(2) An employee or a member of the board shall not be present or participate in a meeting where an application for a loan of any person who is part of his family or with whom he has a business or fiduciary relationship, is considered.

*Interest on loans*

49. (1) The interest on loans shall be in line with the building society's approved credit or loan policies.

(2) The method of recalculation and disclosure of interest rates shall be on a reducing balance method.

*Conduct of board members*

50. (1) A board member and employee of a building society shall adhere to the Authority's fit and proper guidelines in servicing their loans.

(2) The Authority may order the removal of an officer or board member who fails to service his loan.

(3) A person who knowingly approves or grants a loan in contravention of these Regulations shall be liable for any losses resulting to the building society in connection to that loan.

### *Classification of loans and monitoring*

51. (1) A building society shall review its loan portfolio and assign loans to categories or grades based on performance, perceived risk and other relevant characteristics of the loans, to enable the building society to monitor the quality of its loan portfolio and, where necessary, take remedial action to counter deterioration in the credit quality of its portfolio.

(2) Loans shall be classified into different categories, based on the following criteria-

- (a) performing loans;
- (b) watch loans;
- (c) substandard loans;
- (d) doubtful loans;
- (e) loss loans.

### *Restructured loan*

52. (1) A restructured loan may be reclassified where a sustained record of performance is maintained for six months or six instalments have been made from the date of the restructuring and no loan shall be restructured more than once in its life cycle.

(2) Interest on a non-performing loan and advances shall be suspended from being treated as income once a loan is classified as sub-standard, doubtful or loss.

(3) The board shall put in place a policy that guides the classification of the loan portfolio.

## PART VIII

### PROBLEM ASSETS, PROVISIONS AND RESERVES

#### *Identification of problem asset*

53. The board shall ensure prompt identification of problem assets and making appropriate provisions to ensure that the earnings of the building society are not overstated.

#### *Management of problem loans*

54. The board shall ensure that-

- (a) problem loans are managed as per the credit risk management framework; and
- (b) provisions for bad and doubtful debts are made in compliance with the prudential requirements set out in these Regulations.

#### *Loan loss provisioning policy and rates*

55. (1) A building society shall adopt and document a loan loss classification and provision policy.

(2) A building society shall apply such loan loss provisioning policy consistently in the building society's management and periodic reports and to the audited annual financial statements.

(3) The board and management of a building society shall assess and provide for loan loss provision for delinquent loans and it shall be expressed as a percentage of outstanding loan balance less 80% of savings used as security.

(4) A building society may apply to the Authority for prior approval to utilise 100% of savings used as security.

(5) A building society may apply to the Authority for prior approval to utilise 1% for only renegotiated/rescheduled loans classified as performing.

(6) A building society may apply to the Authority for prior approval to utilise 5% for all loans classified as watch.

(7) A building society may apply to the Authority for prior approval to utilise 25% for all loans classified as substandard.

(8) A building society may apply to the Authority for prior approval to utilise 50% for all loans classified as doubtful.

(9) A building society may apply to the Authority for prior approval to utilise 100% for all loans classified as loss.

#### *General reserve for credit losses*

56. (1) The board and management of a building society shall establish a general reserve for credit losses that covers credit losses prudently estimated but not certain to arise over the full life of all the individual facilities making up the business of the building society.

(2) The general reserve for credit losses shall be freely available to meet any credit losses that subsequently and shall be determined on a portfolio basis.

## PART IX CONCENTRATION RISK AND LARGE EXPOSURE LIMITS

#### *Managing risk concentration*

57. The board shall be responsible for implementing an adequate framework for managing the concentration risk incurred by the building society.

#### *Loan limit*

58. The board shall set limits on the exposure to concentration risk by ensuring that the building society does not grant a loan to any-

(a) one member which exceeds twenty-five (25%) percent;

(b) of its directors or employees in excess of twenty percent (20%),

of the building society's core capital.

#### *Limit on investment in securities*

59. The board shall set limits on the exposure to concentration risk by ensuring that the building society does not hold investments in securities (financial instruments) of a non-government issuer which exceeds ten percent (10%) of the building society's institutional capital.

#### *Limit on savings by a member*

60. The board shall set limits on the exposure to concentration risk by ensuring that the building society does not hold savings of any one member which exceeds twenty percent (20%) of the building society's institutional capital.

### *Borrowing limit*

61. (1) A building society shall not acquire a loan in excess of twenty percent (20%) of its total assets without prior approval by the Authority.

(2) An application for approval by the building society shall contain a detailed explanation demonstrating the need to raise the limit above the stipulated twenty percent (20%) of the building society's assets.

(3) The Authority may grant the approval where the proposed raise in the borrowing limit is not likely to have an adverse effect on the liquidity and soundness of the building society.

### *Additional security for an advance*

62. Where a member has pledged the member's policy of life assurance or any other guarantee as additional security for an advance the value of such policy or guarantee shall be assessed at an amount not exceeding the surrender value thereof at the time when the advance was made.

### *Limit on advance on security of mortgage*

63. A building society shall not make an advance on the security of a mortgage or cession in excess of three quarters of the value of the property mortgaged or the lease ceded, as determined at the time of making such advance.

## PART X LIQUIDITY RISK MANAGEMENT

### *Maintenance of adequate level of liquidity*

64. A building society shall, at all times, maintain an adequate level of liquid funds to enable it to fund, at reasonable cost, all contractual obligations of the building society.

### *Liquidity risk management framework*

65. (1) The board and senior management of a building society shall ensure that the building society has, in place, an effective set of policies, procedures and systems to identify, measure and control liquidity.

(2) Such policies, procedures and systems, referred to in sub-regulation (1), shall be appropriate for the liquidity risk profile of the building society.

(3) The liquidity risk management framework shall address-

- (a) liquidity management;
- (b) persons that may access a line of credit for liquidity purposes;
- (c) how liquidity shall be monitored;
- (d) the limits for total cash assets; and
- (e) the limits for the amount to be kept on site.

(4) The liquidity risk management shall include-

- (a) a board-approved statement of the building society's liquidity risk tolerance;

- (b) a board-approved liquidity management strategy and operating standards (e.g. in the form of policies, procedures and controls) for identifying, measuring, monitoring and controlling its liquidity risk in accordance with its liquidity risk tolerance;
  - (c) the building society's funding strategy, approved by the board;
  - (d) a contingency funding plan (to cover emergencies); and
  - (e) regular measurement and reporting of the maturity profile the building society's investments.
- (5) A building society shall file with the Authority a copy of its liquidity risk management framework.

#### *Acceptable liquid assets*

66. (1) A building society shall, at all times, maintain sufficient liquid assets to meet its obligations as they fall due and, in particular, hold liquid assets.

(2) For purposes of this regulation liquid assets shall include unencumbered assets as follows-

- (a) notes and coins which are legal tender in Eswatini;
- (b) Eswatini Government Treasury Bills;
- (c) balances with a maturity period of less than 91 days, held at financial institutions licensed under the Financial Institutions Act, 2005, after deducting balances owing to those institutions; and
- (d) such other liquid assets as the Authority may approve or specify.

#### *Minimum liquidity ration*

67. (1) A building society shall, at the minimum, maintain fifteen percent (15%) of the members' total savings in net liquid assets.

(2) The minimum liquidity ration calculation shall be liquid assets less short-term liabilities, maturing within 90 days, divided by total savings.

(3) The liquidity ration shall be calculated on a monthly basis using the closing balances of the previous business week.

(4) The building society shall report to the Authority the actual liquidity ratio in accordance with these Regulations.

(5) A building society shall, as soon as possible, notify the Authority of-

- (a) any breach of the minimum liquidity ration requirement;
- (b) any concerns the building society has about its current or future liquidity; and
- (c) its plans to address these concerns.

## PART XI INVESTMENTS MANAGEMENT

#### *Responsibility for investment management*

68. (1) A board of a building society shall be responsible for implementing appropriate controls management of the building society's investments and shall, to that extent, ensure that the building society has an investment management policy.

(2) The building society shall file a copy of the investment management policy, referred to in sub-regulation (1) with the Authority.

#### *Investment policy*

69. (1) The purpose of the investment policy shall be to guide investment, monitoring and reporting.

(2) The investments made by a building society shall be in line with the investment policy and the risk appetite of the building society.

(3) The building society shall document the rationale for investment decisions taken by the building society.

#### *Investment in non-earning assets*

70. A building society shall not invest in non-earning assets, other than immovable property, in excess of five percent (5%) of its institutional capital.

#### *Investments in immovable property*

71. (1) A building society shall not, without a prior written approval of the Authority, purchase or acquire any immovable property or any right, interest therein except as may be reasonably necessary for the purpose of housing its offices and conducting its business and where such investments do not exceed ten percent (10%) of the institutional capital of the building society.

(2) A building society that acquires land, in line with these Regulations, shall ensure that the land is utilised within two years of its acquisition.

(3) The Authority may grant written approval of the extension of the period stipulated in sub-regulation (2) at the request of the building society.

#### *Financial investments*

72. (1) A building society shall not make financial investment in non-governmental securities that are in excess of 40% of its institutional capital.

(2) A building society shall make financial investment with the intention of holding to maturity and shall not use the portfolio to trade securities for profit.

(3) For the purposes of this Part, “financial investment” means investments in government securities, and in institutions licensed under the Financial Institutions Act, 2005 and the FSRA Act (as approved and specified by the Authority).

#### *Investment advisers*

73. (1) Where a building society is dealing with an investment adviser, the building society shall ensure that the adviser adequately explains the suitability of the investment and that the building society understands the risk.

(2) A building society shall have its own sound investment criteria and investment decision processes in place.

## PART XII INTERNAL CONTROL AND AUDIT

#### *Compliance with internal controls*

74. (1) The board of a building society shall ensure compliance with internal controls, policies, procedures and other relevant legislation by the building society.

(2) In accordance with the provisions of section 51 of the FSRA Act, a building society shall have a compliance officer who shall be responsible for overseeing the compliance programme of the building society.

(3) A building society shall have in place the oversight, policies, procedures, practices, systems, controls, skills, expertise and reporting arrangements to ensure compliance with relevant legislation.

(4) A building society shall develop, implement, document and maintain a compliance programme that allows it to evaluate compliance with its obligations under this regulation, including compliance with all legal and regulatory requirements.

#### *Elements of a compliance programme*

75. The key elements of a compliance programme shall include a-

- (a) compliance policy;
- (b) compliance plan; and
- (c) review of the compliance policy and plan by the board of directors, at least annually.

#### *Communication of deviation from compliance policy*

76. The compliance officer shall communicate any significant deviations from the compliance policy, the reasons for these deviations and proposed action to address the deviations to the board of directors and the manager.

#### *Updating of the compliance plan*

77. The compliance officer shall ensure that the compliance plan is updated to take account of new or updated compliance requirements (including new or updated legal and regulatory requirements and guidance), new products and services, material modifications to existing products and services and major management initiatives.

#### *Internal audit*

78. A building society shall have an independent and well-resourced internal audit function that reports to the board.

## PART XIII

### FINANCIAL REPORTING AND EXTERNAL AUDIT

#### *Appointment and removal of auditors*

79. (1) To be eligible for appointment to audit a building society, an auditor shall be a registered member of a recognised professional body of auditors with the necessary experience and qualifications.

(2) The first auditor of a building society may be appointed by the directors at any time before the first AGM.

(3) Notwithstanding the provisions of sub-regulation (2), a person shall not be appointed as an auditor unless they are qualified for election as an auditor of a building society.

(4) At each AGM, a building society shall appoint an auditor to hold office from the conclusion of that meeting until the next AGM.

(5) A building society may, by resolution at a general meeting, remove an auditor before his tenure of office expires and may elect, in his place, a person who has been duly nominated for election, who is qualified to be an auditor of a building society, of whose nomination notice has been given to the members of the building society and the Authority.

#### *Advisory and other services*

80. (1) To ensure auditors remain independent and objective, auditors shall not prepare accounting records or financial statements of a building society.

(2) Auditors shall refrain from providing management services or carrying out activities that are generally considered management responsibility.

(3) Activities that are generally identified as taking management responsibility include the following-

- (a) setting policies/strategies;
- (b) authorising transactions;
- (c) deciding recommendations to implement and taking responsibility for designing, implementing and maintaining internal control and accounting system.

#### *Audit rotation*

81. (1) A building society shall engage its auditor on a rotational basis.

(2) An auditor of a building society shall serve not more than three consecutive financial years and shall not, after the expiry of the term, be eligible for engagement within three years of the expiry of the term.

#### *Annual financial statements*

82. (1) A building society shall prepare annual financial statements representing the effects of transactions and events in accordance with applicable laws and financial reporting standards.

(2) Such annual financial statements shall contain, at the minimum-

- (a) the statement of financial position;
- (b) statement of comprehensive income;
- (c) cash flow statement;
- (d) statement of changes in equity; and
- (e) all the relevant disclosures and notes to financial statements.

(3) The financial statements of a building society shall be reviewed by an independent auditor.

(4) A building society shall submit copies of its audited financial statements and the management letter to the Authority, for review, within three months after the end of each financial year and before the date of the AGM.

(5) A building society shall not hold an AGM unless its audited financial statements have been submitted and signed by the Authority.

(6) A building society shall, after the audited accounts and reports have been signed by the Authority, make such copies available to the members before the AGM.

## PART IVX ABUSE OF FINANCIAL SERVICES

### *Building society activities not to be used for criminal activities*

83. (1) The board shall ensure that the building society's activities are not used for criminal activities such as money laundering and terrorist financing.

(2) The building society shall be supervised by the Authority in line with the provisions of the Money Laundering and Financing of Terrorism (Prevention) Act, 2011 and consequently a building society shall have, at the minimum, in place-

- (a) a compliance officer and structures;
- (b) appropriate policies and procedures to deter and detect money laundering and terrorist financing;
- (c) an effective risk based AML/CFT compliance program- a building society should conduct a risk assessment as prescribed by Circular No.2 of 2015;
- (d) board and senior management that ensures compliance with the provisions of the Money Laundering and Financing of Terrorism (Prevention) Act, 2011 and the building society's compliance program; and
- (e) Know Your Customer (KYC) procedures and systems that shall be used at establishment of business relationship, when necessary.

(3) The policies and procedures, referred to in sub-regulation (2) (b), shall provide for identifying and reporting of suspicious transactions and outline the procedure for handling of Politically Exposed Persons (PEPs).

## PART XV MARKET CONDUCT AND PROTECTION OF MEMBERS

### *Protection of members framework*

84. A building society shall put in place a framework for protecting members that is in line with the general acceptable consumer protection principles

### *Appropriate product design and delivery*

85. (1) A building society shall design products and services that are suitable for its members.

(2) The board shall, in ensuring that correct measures are undertaken in the design of products and services, put in place adequate procedures and policies that-

- (a) comprehensively describe the product or service;

- (b) identify the resources required to establish sound and effective management of the product and service;
- (c) analyse the reasonableness of the proposed activities in relation to the building society's overall financial condition and capital levels; and
- (d) measure, control, and monitor the risks of proposed products and services.

*Fair and equitable treatment of members*

86. (1) A building society shall deal fairly and honestly with its members at all stages of their relationship.

(2) A building society shall avoid practices that are harmful to the members, particularly with respect to vulnerable and disadvantaged members.

(3) A building society shall not subject its members to illegal, unethical, discriminatory or deceptive practices, such as-

- (a) abusive marketing tactics;
- (b) abusive debt collection; or
- (c) other improper behaviour that may pose unnecessary risks or harm members.

*Reasonable pricing of financial products*

87. (1) A building society shall price its products and services fairly and in line with its role as a member-based organisation.

(2) The pricing shall be in a way that contributes to the long-term financial health of members while meeting the needs of the organisation for financial sustainability.

(3) A building society's responsibility for pricing shall extend beyond just setting the right price for products and services but includes effective governance and stewardship over member's funds.

*Responsible lending and prevention of over-indebtedness*

88. (1) A building society shall engage in responsible lending by putting in place a policy with well documented processes and a rigorous internal control process for loan assessment and approvals using appropriate information criteria.

(2) A building society shall incorporate staff incentives to facilitate the approval of quality loans and ensuring that staff is trained on loan analysis and the credit approval process.

*Disclosure and transparency*

89. (1) A building society shall provide accurate information regarding the product, terms, conditions, applicable fees and final costs to enable members to take informed decisions.

(2) A building society shall ensure easy access to the information stipulated in sub-regulation (1), especially to the key terms and conditions.

(3) A building society shall put in place adequate policies and well documented processes that allow for transparency on product terms, conditions and pricing.

(4) A building society shall communicate relevant information with members at appropriate times and through appropriate channels to allow for deeper understanding which in turn shall facilitate effective meetings and engagement with the members.

#### *Member education and awareness*

90. (1) A building society shall, as appropriate, develop programmes and mechanisms to assist members to develop the knowledge and skills necessary to understand risks, including financial risks, to take informed decisions and to access competent and professional advice and assistance, preferably from the education committee.

(2) The board shall ensure that the members are promptly updated on any new product that is introduced.

(3) A building society shall ensure that competent personnel is appointed in the education committee and is adequately trained on products and services offered by the building society in order for them to be able to effectively discharge their duties in as far as awareness is concerned.

#### *Protection of members' privacy*

91. (1) A building society shall protect the members' privacy through a combination of appropriate control, security, transparency and consent mechanisms relating to the collection and use of the member information.

(2) The building society may not share any information outside the organisation for its marketing purposes without the members' explicit written consent.

(3) To provide products or services, the building society may disclose information to a service provider or when required by law (legal and other disclosures).

(4) Such information may be shared with service providers under contracts who help with business operations.

(5) Service providers are required to keep information confidential and use it only for the services provided to the building society.

#### *Members' complaints and disputes*

92. (1) A building society shall make available effective, fair, transparent, accessible and speedy complaints-handling mechanisms.

(2) A building society shall encourage members to report unresolved disputes to the office of the Ombudsman of Financial Services in line with section 74 of the FSRA Act.

## PART XVI GUARANTEE FUND

#### *Appointment of Trustees*

93. (1) In accordance with section 92 (1) (b) of the Act, the Authority shall be responsible for co-ordinating all licensed building societies in nominating two persons to be appointed by the Minister to the board of Trustees of the Guarantee Fund.

(2) Trustees appointed to the Board of Trustees of the Guarantee Fund shall be in office for a term of three years, which shall be renewable once only.

### *Building society to pay premiums*

94. (1) A building society shall not be exempt from paying its assessed annual premiums to the Guarantee Fund.

(2) The Guarantee Fund shall compensate members of a failed building society for up to E... net of any liabilities, and a building society shall inform its members of the existence of the Guarantee Fund.

### *Premium to be paid*

95. (1) A building society shall pay an annual premium of E... or zero point zero five percent of total savings and deposits, whichever is higher, to the Guarantee Fund.

(2) The Board of Trustees of the Guarantee Fund shall notify all building societies of the amount of premium and date of payment at least ninety days before its annual premiums fall due.

(3) For purposes of determining premiums to be paid to the Guarantee Fund, a building society shall be assessed on its average savings and deposits during the preceding three years, and a building society which amalgamates shall not be charged extra premium during the year of amalgamation.

(4) The Board of Trustees shall manage the Guarantee Fund through investing premiums paid by a building society and at least fifty percent of the proceeds accruing from the investment of the Guarantee Fund in institutions prescribed by the Act and the other fifty percent of the proceeds may be used to defray operational expenses.

(5) A building society which contravenes this regulation-

- (a) shall have its licence suspended as provided for under section 24 of the Act and shall only have the licence reinstated once the Authority is satisfied that the building society has fully complied with this regulation; and
- (b) any officer of the building society and or any other person engaged in the management of the building society who was aware that the contravention was taking place, or was intended or about to take place, but took no reasonable steps to prevent the contravention or contributed to the contravention commits an offence and is liable, on conviction, to a fine not exceeding E... or imprisonment for a term not exceeding twelve months or to both.

### *Compensation of members*

96. (1) In the event of collapse of a licensed building society, its members may lodge their compensation claims with the Guarantee Fund within ninety days from the time notice is given.

(2) The Guarantee Fund shall settle all verified claims lodged with it within ninety days after the date from which lodging of claims is closed.

(3) The Guarantee Fund shall exercise discretion in determining whether or not to admit claims lodged out of time.

(4) Compensation to members shall be settled in the manner advised by the members and notification made to the last address provided by the member.

(5) An unclaimed compensation in the building society's records shall be sent to the member's last known address.

## PART XVII PRUDENTIAL REPORTING

### *Reports to the Authority*

97. (1) A building society shall submit reports to the Authority on an annual basis.

(2) Notwithstanding the provisions of sub-regulation (1) the Authority may prescribe more frequent reporting schedules for a building society with severe problems.

(3) A building society shall submit annual reports on or before the 30<sup>th</sup> day after the end of the reporting period in the manner and form as may be prescribed by the Authority.

(4) In making the reports referred to in this regulation, a building society shall report to the Authority, through the Authority's online submission system, otherwise known as the Bank Supervision Application (BSA) or in such other form and manner as may be prescribed by the Authority.