

## GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

### NATIONAL TREASURY

NO. 3645

4 July 2023

#### FINANCIAL SECTOR REGULATION ACT, 2017: INVITATION FOR PUBLIC COMMENTS ON DRAFT DEPOSIT INSURANCE REGULATIONS

1. Notice is hereby given, in terms of section 288(4)(a)(iv) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017), inviting written submissions from the public on the draft Deposit Insurance Regulations ('the Regulations'). The Regulations set out necessary administrative and procedural matters to effectively implement the deposit insurance scheme in the Republic of South Africa.
2. A copy of the Regulations and the statement of the need for, intended operation and expected impact of the regulations are available on the National Treasury website: [www.treasury.gov.za](http://www.treasury.gov.za).
3. Written submissions may be submitted to [CommentDraftLegislation@treasury.gov.za](mailto:CommentDraftLegislation@treasury.gov.za) by close of business on **15 August 2023**.
4. By making a submission, the commentator agrees that—
  - (a) the name of the commentator and the submission may be made public by the National Treasury; and
  - (b) the submission may be disclosed if requested in terms of the Promotion of Access to Information Act, 2000.



**ENOCH GODONGWANA, MP**  
**MINISTER OF FINANCE**

**GOVERNMENT NOTICE**  
**NATIONAL TREASURY**

**No.**

**2023**

**FINANCIAL SECTOR REGULATION ACT, 2017:**  
**DEPOSIT INSURANCE REGULATIONS**

The Minister of Finance has under sections 288(1) and 166AB of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017), made the regulations contained in the Schedule.

## SCHEDULE

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## CHAPTER I

### DEFINITIONS AND PURPOSE

#### Definitions

1. In these regulations, any word or expression to which a meaning has been assigned in section 1(1) of the Act, must bear that meaning, unless the context indicates otherwise, and—

**'accountable institution'** means an accountable institution as defined in section 1 of the Financial Intelligence Centre Act;

**'beneficiary'** means the person who is legally entitled to or owns a part of or all of the funds in a formal beneficiary account even though the account is not in that person's name;

**'board'** means board of directors of a bank;

**'chief executive officer'** means a chief executive officer as defined in section 1(1) of the Banks Act;

**'co-operative bank'** means a co-operative bank as defined in section 1 of the Co-operative Banks Act, 2007 (Act No. 40 of 2007);

**'co-operative financial institution'** means a co-operative financial institution as defined in section 1 of the Co-operative Banks Act, 2007 (Act No. 40 of 2007);

**'constitution document'** means a document which describes the purpose and functioning of an informal savings group, specifies who the signatories are, and set out the rules for the contribution and distribution of funds from and to members;

**'depositor protection'** means the protections afforded by the Corporation in accordance with Chapter 12A of the Act;

**'director'** means a director as defined in section 1(1) the Banks Act;

**'electronic business site'** means a website or electronic site used by a bank for business purposes and by persons to make deposits or to transact without assistance from a representative of the bank, and includes automated teller machines;

**'electronic money product'** means a product offered by a bank, which—

- (a) represents monetary value and must be claimable by an issuer;
- (b) can be stored electronically and issued on receipt of funds;
- (c) is generally accepted as a means of payment by persons other than the issuer; and
- (d) is redeemable on demand for physical cash or a deposit into a bank account;

**'financial contribution'** includes—

- (a) a deposit insurance levy imposed under section 9 of the Financial Sector and Deposit Insurance Levies Act, 2022 (Act No. 11 of 2022);
- (b) a deposit insurance premium imposed by legislation, in accordance with section 166BG of the Act; and
- (c) the minimum amount maintained by a bank in the account of the Fund in accordance with section 166BH of the Act and any adjustments to such minimum amount;

**'formal address'** means a structured description of an address with a minimum of a street name, town or city, postal code and country and optional information about a building name, building number and street number;

**'formal beneficiary account'** means an account in a qualifying product where the account holder may not be the owner of the funds in the account but manages the funds on behalf of the beneficiaries to the account, subject to the following conditions—

- (a) the account holder is an accountable institution managing funds on behalf of one or more beneficiaries by maintaining formal records of these beneficiaries and their associated balances; or
- (b) a bank as the accountable institution maintains formal records of the beneficiaries and their associated balances in an account where the account holder is not an accountable institution but manages funds on behalf of one or more beneficiaries;

**'indicator'** means a marking that provides information about the status of a qualifying depositor, account holder or account;

**'informal address'** means a free-form description of an address with optional street or landmark information but with a minimum of town or city, postal code and country;

**'informal beneficiary account'** means an account in a qualifying product offered by a bank to an informal beneficiary account holder who is not an accountable institution and whose members elect signatories to manage the account on their behalf in accordance with the rules specified in the constitution document;

**'informal beneficiary account holder'** means an informal group established by individuals as members to collectively save for a purpose specified in a constitution document;

**'interest accrued'** means interest earned, as at a specific date, on a qualifying product, not yet added to the account balance;

**'internal audit function'** refers to a bank's internal audit function or a person responsible for the internal controls at a bank;

**'joint account'** means a simple account opened in the name of two or more account holders;

**'key systems'** means any information technology system or manual process which affects, stores or processes data required by the Corporation;

**'mutual bank'** means a mutual bank as defined in section 1(1) of the Mutual Banks Act, 1993 (Act No. 124 of 1993);

**'not-ready-for-payout (NRP)'** means a bank has marked a qualifying depositor, account holder or account with one or more indicators reflecting the need for additional documentation or actions before the Corporation can reimburse the affected qualifying depositor;

**'payout agent bank'** means a bank, other than a bank in resolution, authorised by the Corporation to reimburse, on its behalf, a qualifying depositor of a bank in resolution in respect of their covered deposits;

**'pledged deposit'** means a deposit pledged to a lender, for the benefit of the lender, as security for a loan;

**'qualifying deposit balance'** means the sum of all qualifying deposits;

**'qualifying depositor'** includes—

- (a) an account holder of a simple account;
- (b) a beneficiary of a formal beneficiary account; and
- (c) an informal beneficiary account holder,

that holds a qualifying product;

**'qualifying product'** means a product included in depositor protection, namely a deposit, qualifying deposit or a product where the capital amount is guaranteed and repayable at par, regardless of its term or currency;

**'ready-for-payout (RFP)'** means a bank has marked a qualifying depositor, account holder or account with an indicator reflecting that the Corporation can reimburse the qualifying depositor;

**'reimbursement'** means the transfer of the amount of covered deposits to an account in the name of a qualifying depositor or giving a qualifying depositor access to their covered deposits by other means;

**'reporting date'** means the date on which the information for the preparation of SCV calculations is based;

**'SCV calculations'** means the calculation of a bank's total qualifying deposits and total covered deposits based on the SCV records of its qualifying depositors;

**'signatory'** means an individual who has been appointed by the members of an informal beneficiary account holder to manage an informal beneficiary account on their behalf;

**'simple account'** means an account in a qualifying product where the account holder is the legal owner of the funds in the account;

**'single customer view (SCV) record'** means a consolidated view of a qualifying depositor's accounts and associated balances in qualifying products for purposes of calculating the qualifying depositor's qualifying deposit balance and covered deposits;

**'sole proprietorship'** means a business that is owned and operated by a natural person that does not have legal personality separate from its owner;

**'suspense account'** means an account where funds are held temporarily until the funds are processed and allocated to a specific account holder;

**"the Act"** means the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017);

**'transaction effective date'** means the date on which the Prudential Authority registers the notices of the passing of a resolution confirming any amalgamation or merger in terms of section 54(5) of the Banks Act;

**'total covered deposits'** means the total of all covered deposits at a bank; and

**'total qualifying deposits'** means the total of all qualifying deposit balances at a bank.

## **Purpose**

2. The purpose of these regulations is to provide for procedural and administrative matters necessary to effectively operate the Corporation and the Fund.

## **CHAPTER II**

### **COVERAGE**

#### **Limit of cover for covered deposits**

3. For purposes of section 166AB(1) of the Act, the maximum amount the Corporation may apply from the Fund in respect of a qualifying depositor of a bank in resolution for their qualifying deposit balance is R100 000 (one hundred thousand Rand).

#### **Coverage rules**

4. (1) The Corporation must cover a sole proprietor separately as a qualifying depositor.

(2) The Corporation must cover an informal beneficiary account as a formal beneficiary account when a bank—



- (a) collects and maintains the constitution document of an informal beneficiary account;
- (b) can identify and record the members and their entitlement balances for a reporting period in terms of the constitution document for an informal beneficiary account; and
- (c) reports the account as a formal beneficiary account to the Corporation.

(3) The Corporation must cover a qualifying product held by a co-operative financial institution as an informal beneficiary account, subject to the limit of cover.

(4) The Corporation must cover a qualifying depositor's share in a joint account according to the sharing ratio specified by the account holders in the records of the bank.

(5) Where the account holders did not specify a sharing ratio in the records of the bank, the Corporation must cover a qualifying depositor's share in a joint account by dividing the account balance equally between the account holders.

(6) The Corporation may not cover—

- (a) a share;
- (b) holdings in commodities;
- (c) an electronic money product;
- (d) a suspense account; and
- (e) any account where the principal amount is not repayable at par or is repayable at par only subject to a specific condition or guarantee.

(7) Where a bank is a party to an amalgamation or merger transaction as contemplated in section 54 of the Banks Act, the Corporation must cover a qualifying depositor of an affected bank for their covered deposits held at the bank for as long as the bank remains a member of the Corporation.

(8) For purposes of subregulation (7), the Corporation must cover a qualifying depositor of an affected bank as follows—

- (a) prior to the transaction effective date, the Corporation must cover a qualifying depositor of each affected bank for their covered deposits up to the limit of cover; or
- (b) after the transaction effective date, the Corporation must cover a qualifying depositor of the amalgamated or combined bank for their covered deposits up to the limit of cover.

### **Review of limit and scope of coverage**

5. The Corporation may review and update the limit of cover and scope of depositor protection at least every five years from the date of its establishment.

### **CHAPTER III**

#### **APPLICATION OF FUND WHEN REIMBURSING COVERED DEPOSITS IN ACCORDANCE WITH SECTION 166AA(1)(b) OF ACT**

##### **Reimbursement of covered deposits**

6. (1) The Corporation must apply the Fund to reimburse a qualifying depositor of a bank in resolution for their covered deposits when the following conditions are fulfilled—

- (a) the bank is a member of the Corporation; and
- (b) the Reserve Bank has decided that covered deposits must be reimbursed.

(2) The Corporation must reimburse a qualifying depositor of a bank for their covered deposits not later than 20 calendar days from the date on which the conditions specified under subregulation (1) are fulfilled, except in the cases specified in regulation 10.

(3) When the conditions specified under subregulation (1) are fulfilled, the Corporation must announce the reimbursement of covered deposits, its commencement date, the reimbursement methods, and the end of the reimbursement process.

##### **Reimbursement methods**

7. (1) The Corporation must use the information submitted by a bank in resolution in accordance with regulation 30 to determine the covered deposits for a qualifying depositor using the rules specified in these regulations.

(2) The Corporation may reimburse a qualifying depositor for their covered deposits using any method it deems appropriate, including—

- (a) making an electronic funds transfer (EFT) into an account nominated by a qualifying depositor, in the name of a qualifying depositor at a bank other than the bank in resolution; or
- (b) through one or more payout agent banks.

(3) The Corporation may make multiple reimbursements to a qualifying depositor, subject to the limit of cover.

(4) Reimbursement of a qualifying depositor's covered deposits by the Corporation discharges the Corporation from all liabilities to the qualifying depositor for the reimbursed amount.

### **Reimbursement of formal beneficiary account**

8. The Corporation must reimburse a beneficiary of a formal beneficiary account for their covered deposits not later than 20 calendar days from receipt of the information referred to in regulation 31.

### **Reimbursement of informal beneficiary account**

9. (1) The Corporation must reimburse the signatories to the account for the informal beneficiary account holder's covered deposits.

(2) The Corporation must reimburse a signatory of an informal beneficiary account in line with their rights and responsibilities as specified in the records of the bank in resolution.

(3) Where an informal beneficiary account holder has multiple accounts with different signatories, the Corporation may reimburse each set of signatories for the covered deposits on a *pro rata* basis.

### **Right of Corporation to defer reimbursement of covered deposits**

10. (1) The Corporation may extend the period for reimbursement specified under regulation 6(2)—

(a) when a bank, in the information submitted to the Corporation in accordance with these regulations, indicates that—

- (i) a qualifying depositor has not been reliably identified in accordance with the requirements of the Financial Intelligence Centre Act;
- (ii) the legal right of a qualifying depositor to receive a reimbursement is not established or a covered deposit is the subject of a legal dispute;
- (iii) a qualifying depositor is subject to restrictive measures imposed by the local authorities or international organisations;
- (iv) a qualifying depositor has been charged with an offence arising out of or in relation to money laundering as defined in the Financial Intelligence Centre Act or any other financial crime;
- (v) an account is pledged as collateral on a loan at the same bank, for the same or a different depositor, or at another bank for the same or another depositor; or
- (vi) a qualifying depositor is deceased;

(b) in other reasonable circumstances determined and justified by the Corporation.

(2) The Corporation must reimburse a qualifying depositor for a deferred covered deposit within 20 calendar days after the reason for the deferral has been resolved and the Corporation has been duly notified.

### **Currency of reimbursement**

11. (1) The Corporation must reimburse covered deposits in South African Rand (ZAR).

(2) For purposes of subregulation (1), a bank in resolution must convert a foreign currency balance to South African Rand (ZAR) using the rate published by the Reserve Bank at the date the Minister made a determination placing the bank in resolution in accordance with section 166J(2) of the Act.

(3) Where the date on which a bank is placed in resolution, referred to in subregulation (2), falls on a Saturday, Sunday, or a public holiday the bank in resolution must convert a foreign currency balance to South African Rand (ZAR) using the rate published by the Reserve Bank on the immediately preceding business day.

### **Statements to qualifying depositors**

12. The Corporation—
- (a) must make a statement available to a qualifying depositor of a bank in resolution after each reimbursement to them or when it defers the reimbursement of their covered deposits in accordance with regulation 10;
  - (b) must notify a qualifying depositor of the availability of a statement to them using any method it deems appropriate, including SMS or e-mail; and
  - (c) may make a statement available to a qualifying depositor using any method it deems appropriate.

### **Unpaid covered deposits**

13. A qualifying depositor can claim their covered deposits from the Corporation within a period of three years from the date the circumstances in regulation 6(1) occurred.

## **Disputes against Corporation**

**14.** (1) A person who disagrees with a reimbursed amount may file a dispute with the Corporation within three months from the date of reimbursement of their covered deposits.

(2) A person claiming to be a qualifying depositor, who has not received any reimbursement, may file a dispute with the Corporation within the period specified in regulation 13.

(3) A person must submit a dispute in the manner and the form prescribed by the Corporation.

(4) Upon receipt of a dispute, the Corporation must investigate the dispute and pronounce on the dispute submitted in terms of subregulation (1) or (2) within 20 calendar days from receipt thereof.

(5) When considering a dispute, the Corporation may request additional evidence supporting the claim.

(6) Where the Corporation requests additional evidence supporting a person's claim, the Corporation must pronounce on the dispute within 20 calendar days from the receipt of the additional evidence by the Corporation.

(7) Where a dispute resulted in an amount due to a qualifying depositor or person, the Corporation must—

- (a) subject to the limit of cover, reimburse the qualifying depositor or person within 20 calendar days after the pronouncement in accordance with subregulation (4) or subregulation (6) using the reimbursement methods specified in regulation 7; and
- (b) make an updated statement available to the qualifying depositor in accordance with regulation 12.

## **Selection of payout agent bank**

**15.** When selecting a payout agent bank, the Corporation must use a fair and transparent process.

## **Exchange of information**

**16.** (1) The Corporation must regularly inform the liquidator or resolution practitioner of a bank in resolution about amounts reimbursed to an individual qualifying depositor.

(2) The Corporation may request information from the liquidator or resolution practitioner of a bank in resolution for purposes of a reimbursement or when considering a dispute submitted in accordance with regulation 14.

(3) Unless expressly otherwise determined by the Corporation, the liquidator or resolution practitioner of a bank in resolution must furnish the Corporation with such information within 10 business days of receiving a request referred to in subregulation (2).

## **CHAPTER IV**

### **APPLICATION OF FUND IN ACCORDANCE WITH SECTION 166AA(1)(c) OF ACT**

#### **Conditions for use**

**17.** Where a bank is in resolution, the Corporation must apply the Fund in accordance with section 166AA(1)(c) of the Act when the following conditions are fulfilled:

- (a) the bank is a member of the Corporation;
- (b) the Reserve Bank decides to enter into an agreement related to a transaction referred to in section 166S(1) of the Act, in relation to the total covered deposits of the bank in resolution;
- (c) the Reserve Bank formally requests support from the Corporation for a transaction referred to in section 166S(1) of the Act; and
- (d) the agreement related to a transaction referred to in section 166S(1) of the Act is finalised.

#### **Determination of total covered deposits for non-payout resolution support**

**18.** The Corporation must use the information submitted by a bank in resolution in accordance with regulation 30 to determine total covered deposits for the bank in resolution using the rules specified in these regulations.

## **CHAPTER V**

### **GOVERNANCE AND OVERSIGHT REQUIREMENTS**

#### **Declaration when bank has no qualifying depositors**

**19.** (1) Where a bank did not have qualifying depositors for a particular reporting period, it must submit to the Corporation, Declaration A1.

(2) A bank's chief executive officer and chief financial officer, or equivalent, must sign Declaration A1.

### Monthly declarations

**20.** (1) Except in cases referred to in subregulation (2), a bank must submit Compliance declaration A2 to the Corporation within three working days of submitting its total qualifying deposits and total covered deposits to the Corporation in accordance with regulation 28, confirming that the bank—

- (a) prepared and submitted the information in accordance with the requirements set out in these regulations;
- (b) maintained effective compliance and internal controls over the information reported in terms of the requirements set out in these regulations;
- (c) complies with the minimum requirements set out in these regulations; and
- (d) provided information to the Corporation that is true and correct.

(2) Where a bank does not comply with the minimum requirements set out in these regulations, the bank must submit Compliance declaration A3 to the Corporation within three working days of submitting its total qualifying deposits and total covered deposits to the Corporation in accordance with regulation 28, which declaration must highlight specific areas of non-compliance, together with—

- (a) the reasons for the non-compliance; and
- (b) a remedial plan with actions that the bank will take to address its non-compliance and associated timelines.

(3) Where a bank previously reported areas of non-compliance to the Corporation in Compliance declaration A3, a bank must submit an update to the Corporation on the progress made with its plan to address such areas of non-compliance together with Compliance declaration A3 for the current month.

(4) A bank's chief executive officer and chief financial officer, or equivalent, must sign Compliance declaration A2 and Compliance declaration A3 respectively.

(5) The submission of the declarations mentioned in subregulations (1) and (2) may not preclude the Corporation from requiring amendments to the remedial plan or requiring the immediate remediation of the reported non-compliance.

## **Changes to key systems used for reporting to Corporation**

**21.** A bank must ensure that the implementation of any changes to its key systems used for reporting to the Corporation does not jeopardize the accuracy and completeness of the information submitted to the Corporation.

## **Internal audit requirements**

- 22.** (1) A bank, as a minimum, must have the following controls in place—
- (a) all affected business units, including a bank's internal audit function, must have embedded internal procedures in their normal conduct of business to comply with the Corporation's requirements for the calculation and submission of a bank's total qualifying deposits and total covered deposits as specified in these regulations;
  - (b) the internal procedures must allow business units to identify and address data inaccuracies and exceptions quickly and adequately to avoid errors; and
  - (c) a bank must document its internal procedures and controls for complying with the Corporation's requirements. The documentation must cover the process a bank uses to collect, process, and compile its SCV records and SCV calculations and identify areas where the bank can improve the effectiveness of its controls, if any.
- (2) A bank must annually update the documentation referred to in subregulation (1)(c) and submit the documentation to the Corporation upon request.
- (3) A bank's internal audit function must—
- (a) continuously monitor and assess the reliability of a bank's internal controls in terms of the preparation of the bank's total qualifying deposits and total covered deposits using SCV calculations; and
  - (b) report on the outcome of its assessment in accordance with subregulation (3)(a) to the Corporation and the Prudential Authority within the last quarter of the bank's financial year.

## **CHAPTER VI**

### **PUBLIC AWARENESS**

#### **Depositor protection information**

- 23.** (1) The Corporation must develop and publish through any channel it deems appropriate, the following information—
- (a) details of the protections afforded by the Corporation;



- (b) the process and conditions for reimbursement conducted in accordance with section 166AA(1)(b) of the Act; and
- (c) information on its operations.

#### **Corporation's provision of depositor protection information to banks**

**24.** The Corporation must make available to a bank—

- (a) deposit insurance information for distribution to its depositors;
- (b) standardised material to communicate its membership of the Corporation to its depositors; and
- (c) training or training materials on depositor protection.

#### **Type and contents of depositor protection information to be provided by banks**

**25.** (1) A bank must make information about depositor protection readily available and visible to depositors.

(2) When informing a depositor about depositor protection and in advertising materials, a bank must—

- (a) make true, correct, and complete representations with respect to—
  - (i) what constitutes a qualifying depositor;
  - (ii) whether a product qualifies for depositor protection;
  - (iii) the limit of cover applicable to depositor protection as specified in these regulations; and
  - (iv) its membership to the Corporation;
- (b) only use standardised material approved by the Corporation.

(3) A bank must state in the terms and conditions of a product whether the depositor and product qualifies for depositor protection.

(4) A bank must ensure that its customer-facing staff undergo depositor protection training annually using the training or training material made available by the Corporation in accordance with regulation 24(c).

## **Depositor awareness of mergers and amalgamations or transfer or sale of deposit books**

**26.** (1) Where a bank is a party to an amalgamation or merger transaction as contemplated in section 54 of the Banks Act or where a bank's deposit book is transferred to another bank, the affected bank must notify its depositors at least 30 days before the transaction effective date or, where applicable, as soon as possible after the bank is required to announce information relating to the transaction through a Stock Exchange News Service (SENS).

(2) Where the Resolution Authority facilitates a transaction referred to in subregulation (1) the prescribed notification period does not apply.

(3) A bank must give a qualifying depositor a period of 90 days following notification in accordance with subregulation (1) to withdraw or transfer their qualifying product or any part thereof to another bank without incurring any costs.

## **CHAPTER VII REPORTING**

### **SCV reporting requirements**

**27.** (1) A bank must prepare its total qualifying deposits and total covered deposits using SCV calculations.

(2) The Corporation may provide additional guidelines for the preparation of total qualifying deposits and total covered deposits by a bank in accordance with these regulations.

(3) To prepare its total qualifying deposits and total covered deposits using SCV calculations, a bank must ensure that its key systems, at a minimum, are able to—

- (a) identify a qualifying deposit;
- (b) identify an account held in a qualifying product;
- (c) identify a qualifying depositor and a formal beneficiary account holder using the minimum identification criteria set out in these regulations;
- (d) identify a simple account, formal beneficiary account or informal beneficiary account;
- (e) mark a qualifying depositor and an account in a qualifying product as ready-for-payout (RFP) or not-ready-for-payout (NRP) using one or more of the applicable indicators;
- (f) provide the details of an account held in a qualifying product with its balances;

- (g) provide a balance due to a beneficiary of a formal beneficiary account;
- (h) calculate the interest accrued on an account daily, to include interest as at the reporting date;
- (i) convert a foreign currency balance to South African Rand (ZAR) as at the reporting date; and
- (j) generate a SCV record with the required information fields for each qualifying depositor and their accounts in a qualifying product.

### **Submission to Corporation**

**28.** (1) A bank must submit its total qualifying deposits and total covered deposits to the Corporation monthly, using month-end balances, in the manner and form prescribed by the Corporation.

(2) A bank must submit its supporting SCV calculations with the total qualifying deposits and total covered deposits to the Corporation quarterly or at a frequency specified by the Corporation, in the manner and form prescribed by the Corporation.

### ***Ad hoc* submissions**

**29.** (1) The Corporation may request a bank to submit *ad hoc* total qualifying deposits and total covered deposits, with the supporting SCV calculations.

(2) A bank must provide the Corporation with its total qualifying deposits and total covered deposits, with the supporting SCV calculations, within 48 hours of receiving an *ad hoc* request from the Corporation, using the reporting date specified by the Corporation, in the manner and form as prescribed by the Corporation.

### **Submission by bank in resolution**

**30.** (1) A bank must provide the Corporation with its total qualifying deposits and total covered deposits, with the supporting SCV calculations, within 48 hours from the date the bank is placed in resolution.

(2) The total qualifying deposits and total covered deposits, with the supporting SCV calculations, must contain the balances of qualifying products standing to the credit of a qualifying depositor as at the date the bank was placed in resolution.

(3) Where a bank fails to provide the Corporation with total qualifying deposits and total covered deposits, together with the supporting SCV calculations, in

accordance with subregulation (1), the resolution practitioner or liquidator must provide the Corporation with the bank's total qualifying deposits and total covered deposits with the supporting SCV calculations.

(4) Any subsequent amendment to the total qualifying deposits and total covered deposits and the supporting SCV calculations, submitted to the Corporation in accordance with subregulation (1), must be signed and submitted to the Corporation by the resolution practitioner or liquidator of the bank in resolution.

#### **Details of beneficiary of formal beneficiary account of bank in resolution**

**31.** (1) A formal beneficiary account holder must identify a beneficiary of a formal beneficiary account using the minimum identification criteria, specified in regulation 37(1), and submit the details of the beneficiary to the bank in resolution.

(2) A bank in resolution must submit the details, specified in regulation 35(4), of a beneficiary of a formal beneficiary account to the Corporation.

#### **Validation or verification of SCV calculations**

**32.** (1) The Corporation must perform a validation or verification of a bank's SCV calculations.

(2) Where the Corporation informs a bank of any errors or discrepancies identified in the bank's SCV calculations, the bank must correct and resubmit its total qualifying deposits and total covered deposits, with the supporting SCV calculations, to the Corporation within 48 hours or a timeframe specified by the Corporation.

#### **Adjustments to financial contributions**

**33.** Where a resubmission referred to in regulation 32(2) results in an amendment to a bank's total covered deposits, the Corporation may decide whether the bank must adjust its financial contributions to the Corporation accordingly.

#### **SCV reporting of depositor information to Corporation**

**34.** (1) Except in circumstances referred to in regulation 35, a bank must include in its SCV calculations qualifying depositor information for the following accounts, as applicable to the bank—

(a) simple accounts;

- (b) formal beneficiary accounts; and
- (c) informal beneficiary accounts.

(2) For the accounts referred to in subregulation (1), a bank must—

- (a) include dormant accounts; and
- (b) apply the coverage rules in accordance with these regulations.

(3) A bank must include the details specified by the Corporation for each account referred to in subregulation (1) when generating its SCV records and submit it to the Corporation in the manner and form prescribed by the Corporation.

(4) A bank must differentiate between a qualifying depositor that is a natural person and one that is a sole proprietor and include them as separate qualifying depositors in its SCV records.

(5) A bank must include each formal beneficiary account in its SCV calculations except when, on a monthly basis—

- (a) a bank can identify every beneficiary to a formal beneficiary account and not one of the beneficiaries is a qualifying depositor; or
- (b) a bank, based on information received from the holder of a formal beneficiary account, confirms that not one of the beneficiaries to a formal beneficiary account is a qualifying depositor.

(6) If a bank—

- (a) collects and maintains the constitution document; and
- (b) identifies and records details of the members and the balances due to each member for a reporting period in terms of the constitution document,

for an informal beneficiary account, the bank must treat the account as a formal beneficiary account in its SCV records.

### **Reporting of formal beneficiary account when SCV reporting is not possible**

**35.** (1) Where a bank cannot generate SCV records for the beneficiaries of a formal beneficiary account in accordance with regulation 34(1), the bank must include a separate record for each formal beneficiary account with their balances in the preparation of its total qualifying deposits and total covered deposits calculations, except in the circumstances referred to in regulation 34(5).

(2) In these regulations, any requirement relating to the preparation of SCV calculations and the submission thereof to the Corporation, must include a requirement for the

preparation and submission of the separate records for each formal beneficiary account for which a bank cannot generate an SCV record for the beneficiaries.

(3) Where a bank cannot identify all the beneficiaries of a formal beneficiary account with their balances in the account, it must include the formal beneficiary account's balance as the account's qualifying deposit balance and covered deposits.

(4) For purposes of subregulation (3), a bank must include the details specified by the Corporation for each formal beneficiary account when generating its SCV records and submit it to the Corporation in the manner and form prescribed by the Corporation.

### **Use of total covered deposits**

**36.** The Corporation must use a bank's monthly total covered deposits, submitted to it in accordance with regulation 28 and containing the information prescribed by the Corporation, to calculate the bank's financial contributions to the Corporation.

### **General reporting requirements**

**37.** (1) A bank, as a minimum identification criterion, must identify a qualifying depositor and formal beneficiary account holder in terms of the requirements of the Financial Intelligence Centre Act.

(2) When preparing SCV records, a bank must provide—

- (a) the identifying details specified by the Corporation of a qualifying depositor or formal beneficiary account holder; and
- (b) at least the following contact details for a qualifying depositor or formal beneficiary account holder—
  - (i) either a formal or informal address;
  - (ii) one telephone number; or
  - (iii) an email address.

(3) (a) Unless expressly otherwise determined by the Corporation, a bank must report balances to the Corporation—

- (i) in South African Rand (ZAR) and up to two decimals of cents of currency;
- (ii) on a gross basis;
- (iii) including interest accrued up to the reporting date; and
- (iv) excluding outstanding account fees up to the reporting date.

- (b) A bank must include account balances in its SCV records as—
  - (i) a zero balance when it is a credit balance; or
  - (ii) the account balance when it is a debit balance due to the depositor.
- (c) A bank must convert a foreign currency balance to South African Rand (ZAR) using the exchange rate published by the Reserve Bank at the reporting date.
- (d) A bank's SCV records must—
  - (i) include an unsettled payment made to the account balance; and
  - (ii) deduct an unsettled payment made from the account balance.

(4) When compiling its SCV records, a bank must use one or more not-ready-for-payout (NRP) indicators for each of the conditions that apply to a qualifying depositor, formal beneficiary account holder or an account, where—

- (a) a qualifying depositor has not been reliably identified in accordance with the requirements of the Financial Intelligence Centre Act;
- (b) the legal right of a qualifying depositor to receive a reimbursement is not established or a covered deposit is the subject of a legal dispute;
- (c) a qualifying depositor is subject to restrictive measures imposed by the local authorities or international organisations;
- (d) a qualifying depositor has been charged with an offence arising out of or in relation to money laundering as defined in the Financial Intelligence Centre Act or any other financial crime;
- (e) an account is pledged as collateral on a loan at the same bank, for the same or a different depositor, or at another bank for the same or another depositor;
- (f) a qualifying depositor is deceased; or
- (g) other cases determined by the Corporation.

## CHAPTER VIII

### FAILURE OR INABILITY TO COMPLY AND GENERAL PROVISIONS

#### Failure or inability to comply

38. (1) A bank that fails or is unable to comply with a provision of these regulations must report its failure or inability to comply in writing to the Corporation, stating the reasons for such failure or inability to comply.

(2) The Corporation may, if in the circumstances the Corporation deems it fit to do so, condone the said failure or inability and, subject to such conditions as may be specified in writing, afford the bank concerned an opportunity to comply with the relevant provision within a specified period.

(3) The Corporation may refer continued failure or inability to comply with the provisions of these regulations to the Prudential Authority to take action against a bank referred to in subregulation (1) in accordance with the applicable financial sector law.

#### Reporting and submitting information to Corporation

39. (1) The Corporation, by notice in the *Gazette*, may specify the form and content of reporting and submitting information in terms of these regulations.

(2) A bank must report and submit information in accordance with the relevant forms contained in the notice.

(3) Additional facilities may be provided by the Corporation for the submission by a bank of the required information by electronic means, and further details in this regard may be obtained from the Corporation.

#### Short title and commencement

40. These regulations are called the Deposit Insurance Regulations, 2024, and take effect 1 April 2024.



**Declaration A1: Chief executive officer and chief financial officer confirmation of no qualifying depositors**

**[Bank's name]: Confirmation of no qualifying depositors for the month ending on [month-end + year]**

We declare that [bank's name] had no qualifying depositors, as defined in the Deposit Insurance Regulations, for [month + year].

[Signature]

[Name of CFO]

Chief Financial Officer

Date: [date]

[Signature]

[Name of CEO]

Chief Executive Officer

Date: [date]

**Compliance declaration A2: Chief executive officer and chief financial officer declaration for the total qualifying deposits and total covered deposits to the Corporation**

**[Bank's name]: Declaration of the total qualifying deposits and total covered deposits to the Corporation for the month ending on [month-end + year]**

[Bank's name] prepared its total qualifying deposits and total covered deposits based on its SCV calculations for [month + year] submitted to the Corporation in accordance with the requirements set out in the Deposit Insurance Regulations, dated [day + month + year].

We declare that effective compliance and internal controls have been maintained over the information reported as per the deposit insurance requirements in the Deposit Insurance Regulations. The total qualifying deposits and total covered deposits based on its SCV calculations provided by [bank] in the [month + year] are, to the best of our knowledge, true and correct.

We declare that [bank name]'s key system(s) complies/comply with the minimum requirements specified in the Deposit Insurance Regulations.

[Signature]

[Name of CFO]

Chief Financial Officer

Date: [date]

[Signature]

[Name of CEO]

Chief Executive Officer

Date: [date]

**Compliance declaration A3: Chief executive officer and chief financial officer declaration of non-compliance in the total qualifying deposits and total covered deposits to the Corporation**

**[Bank's name]: Total qualifying deposits and total covered deposits to the Corporation for the month ending on [month-end + year] with identified areas of non-compliance**

[Bank's name] prepared its total qualifying deposits and total covered deposits based on its SCV calculations for [month + year] submitted to the Corporation in accordance with the requirements set out in the Deposit Insurance Regulations, dated [day + month + year].

We declare that effective compliance and internal controls have been maintained over the information reported as per the Deposit Insurance Regulations. The total qualifying deposits and total covered deposits based on its SCV calculations provided by [bank] in the [month + year] are, to the best of our knowledge, true and correct.

We declare that [bank name's] key system(s) complies/comply with the minimum requirements specified in the Deposit Insurance Regulations, except for the following requirements:

1. [Details of the first requirement the bank does not comply with.]
2. [Details of the second requirement the bank does not comply with.]
3. [Details of the third requirement the bank does not comply with.]

Etc

[Signature]

[Name of CFO]

Chief Financial Officer

Date: [date]

[Signature]

[Name of CEO]

Chief Executive Officer

Date: [date]